

VILLAGE OF HILLBURN

CHAPTER 250, ZONING

Prepared for:

Village of Hillburn Board of Trustees

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Article I
Enacting Clause, Title and Short Title

§ 250-1. Enacting clause.

The Board of Trustees of the Village of Hillburn in Rockland County, New York, acting under authority of Article 7 of the Village Law of the State of New York, the Municipal Home Rule Law and the Statute of Local Governments, hereby adopts and enacts this chapter as the comprehensive zoning local law of the Village of Hillburn.

§ 250-2. Title.

This chapter shall also be known and may be cited and referred to as the "Hillburn Zoning Local Law", "Zoning chapter", or "zoning chapter".

§ 250-3. Rules of construction.

- A. The provisions of this chapter, as interpreted and applied, shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare, and, more particularly, for the purposes set forth in §250-4, and for the provision of a gradual remedy for existing conditions that are detrimental thereto.
- B. It is not the intent of this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when this chapter imposes a greater restriction on the use of buildings or land or on the heights of buildings or requires larger yards, buffers, or open spaces or makes any other greater requirements than any imposed or required by any easements, covenants or agreements, the provisions of this chapter shall control.
- C. Whenever any provision of this chapter differs from any other provision of this chapter or from any provision of any other law, ordinance or resolution of any kind, that provision which is the more restrictive, or which imposes a higher standard, shall govern.

Article II

Declaration of Purpose

§ 250-4. Purposes.

There is hereby established a set of comprehensive zoning regulations for the Village of Hillburn, which regulations are set forth in the text and map that constitute this Zoning chapter. This Zoning chapter is intended to effectuate the vision, goals, objective and recommendations of the Village of Hillburn Comprehensive Plan, as may be amended from time to time. These regulations are adopted for the purposes set forth in Article 7, §§ 700 and 704 of the New York State Village Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following purposes, among others:

- A. To prevent excessively dense development.
- B. To provide adequate access of light and air to buildings, particularly residences.
- C. To provide privacy for residents and protect and buffer them from incompatible and unsightly uses and nuisances such as noxious odors, noise, light, air and water pollution.
- D. To provide usable outdoor space for all residents.
- E. To facilitate the provision of adequate commercial facilities and services that are consistent with the Comprehensive Plan and that are environmentally responsible, in order to promote economic development and expand the Village's tax ratable base.
- F. To protect residences from any noxious or injurious substances and conditions which can be associated with certain commercial and manufacturing establishments.
- G. To prevent and reduce traffic congestion.
- H. To promote the most desirable use of land for the most appropriate and beneficial development consistent with the Comprehensive Plan.
- I. To protect the historic character of land, buildings, and structures within the Village.
- J. To promote and protect the stability and character of established residential neighborhoods.
- K. To enhance and protect the value of land and buildings.
- L. To protect and enhance the visual environment of the Village and promote architecturally attractive development.
- M. To protect the Village's natural environment and landscape, and discourage development on steep slopes, ridgelines, areas of substantial rock outcrops, areas subject to flooding and areas adversely affecting natural lakes, wetlands, ponds and streams.
- N. To allow development which can be served adequately by public utilities and community service providers, including but not limited to water, sewage disposal, drainage, roadway capacity, police and fire protection, and to not facilitate the extension of utilities into areas to support development or uses in excess of the density or intensity allowed by this Zoning chapter or recommended by the Comprehensive Plan.

- O. To create connections to, and protect the water quality of, the Ramapo River, a U.S. Environmental Protection Agency designated sole source aquifer area.
- P. To consider the consistency of any land use application with the objectives of the Hudson River Valley Greenway, of which the Village is a member community.

Article III

Scope of Controls

§ 250-5. Scope of controls.

After the effective date of this Zoning chapter and except as hereinafter provided:

- A. No land shall be used or occupied and no building or other structure shall hereafter be used, occupied, erected, moved or altered unless in conformity with the regulations herein specified. Existing nonconforming uses and nonconforming area and noncomplying bulk may continue, subject to the provisions of Article IX.
- B. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.
- C. No land shall be used or occupied and no building shall be used, erected or altered to accommodate a greater number of families, or a greater residential density, than is specified or intended by this chapter.
- D. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No building permit shall be issued for the erection or alteration of a building on any new lot thus created unless such building and lot comply with all provisions of this chapter or variances are obtained.
- E. Any use not permitted by this chapter shall be deemed to be prohibited. The list of prohibited uses contained in § 250-17.G of this chapter shall not be deemed to be an exhaustive list but has been included to illustrate by example the frequently proposed uses that are deemed undesirable and incompatible and are thus prohibited. Where an unlisted use is proposed to be placed in the Village, the applicant may seek a determination from the Zoning Board of Appeals as to whether the proposed use is substantially the same as a permitted, special use or prohibited use. In such cases the Zoning Board of Appeals shall examine the characteristics of the proposed use in relation to uses specifically permitted or prohibited. It shall be the responsibility of the applicant to furnish adequate information to permit the Zoning Board of Appeals to make its determination.
- F. Nothing contained in this chapter shall require any change in the previously approved plans, construction or use of an existing building that complied with local laws in force prior to this Zoning chapter and where a building permit or certificate of occupancy had been duly issued before the effective date of this Zoning chapter.

Article IV Definitions

§ 250-6. General interpretation.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular. The word "shall" is always mandatory and not discretionary. The word "may" is permissive; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "intended", "maintained for" and "occupied for." The word "person" includes a profit or nonprofit corporation, company, partnership, associations, joint ventures, individual, or any combination thereof. The word "lot" includes the word "plot." The words in this chapter shall be construed in accordance with their common meaning unless their context requires a different interpretation or unless they are otherwise defined in this chapter. The word "includes" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- B. Unless the context clearly indicates otherwise, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," "either...or," or "and/or," the conjunction shall be interpreted as follows:
- (1) "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - (2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - (3) "Either...or" or indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

§ 250-7. Terms defined.

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

ACCESSORY BUILDING OR STRUCTURE- A structure or building which is customarily incidental or subordinate to the principal use and which is located on the same lot as such principal use. Any accessory building attached to a principal building is deemed to be part of such principal building in applying the bulk regulations. Examples of accessory buildings are detached garages, barns, sheds, cabanas, television dish receivers and private greenhouses. Accessory uses, buildings and structures shall not exceed 40 percent of the area of the principal use, except that accessory parking shall not be included in the calculation.

ACCESSORY USE - A use which is customarily incidental and subordinate to the principal use on the lot and located on the same lot therewith, except that where specifically so provided, accessory off-street parking need not be located on the same lot. An accessory use shall not be accessory to another accessory use on a lot. Accessory uses, buildings and structures shall not exceed 40 percent of the area of the property occupied by the principal building or use, except that accessory parking shall not be included in the calculation.

ADULT ENTERTAINMENT ACTIVITY OR BUSINESS USE- Any adult retail store, adult arcade, adult cabaret or adult movie theater involving a sexually explicit and oriented business which offers at any time to the public, customers or members, literature, books, or performances by persons who appear nude or seminude or live performances that are characterized by their emphasis on the exposure,

depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities, whether such business is licensed or unlicensed and whether such activities occur regularly or on one occasion only.

AFFORDABLE HOUSING – Dwellings units made available to households earning no more than 80 percent of the Village’s median household income measured in the year immediately preceding the anticipated occupancy of the dwelling units. Median household income shall be based on U.S. Census Bureau data and calculated annually using the Consumer Price Index for the New York-Newark-Jersey City region for all Urban Consumers.

ALTERATION - Any change, rearrangement or addition to a structure other than repairs; any modification to the exit facility or in construction whether by increasing in height, extending on a side, in repositioning or relocating a structure or portion thereof.

ALTERATION, HISTORIC - Any change, construction, reconstruction, covering over, or removal of a regulated historic property, building or structure or exterior architectural feature(s) thereof. Alteration shall not include routine maintenance or repair of same required by normal wear and tear with the same materials unless such maintenance would result in a change in the architectural appearance of the structure. Interior alterations that do not affect the exterior architectural features of the historic structure are not regulated by this section.

ALTERATION, STRUCTURAL - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

ANIMAL SANCTUARY - Facilities and land used to house, protect and rehabilitate animal species. For purposes of this zoning chapter, permissible animals shall include those which are commonly domesticated and indigenous to the northeast, as well as any avian species. The animal sanctuary shall be accredited by the American Sanctuary Association or other similar accrediting body

ANTIQUÉ SHOP – A retail use that sells pre-owned older items which are highly collectible due to beauty, condition, rarity, and other features which make them valuable.

APPLICANT - A property owner, or a person authorized by the property owner to make an application seeking a determination or decision from the Code Enforcement Officer, Planning Board, Village Board, or Zoning Board of Appeals with regard to this Zoning chapter. Any applicant that is a corporation, corporate entity, partnership, limited liability corporation shall disclose all owners of the LLC to ensure that no conflict of interest will occur as a result of any board member or official reviewing the application and for public hearing purposes.

ART GALLERY – A retail use engaged in the sale, loan or display of art books, paintings, sculpture, or other works of art. This use does not include libraries or museums.

ART STUDIO – A studio or other space used by an artist for the development, display, and sale of art or the instruction in a personal artistic skill such as fine arts, crafts, dance and music. Said use shall not involve food preparation, mechanical equipment such as kilns, commercial-scale ovens, milling machines and similar equipment.

ASSISTED LIVING FACILITY - A residential development in which a New York State approved assisted living program and/or assisted living residences (as defined by state law) are operated. An assisted living program or an assisted living residence (as defined by state law) is an entity which is approved to operate pursuant to the New York State Public Health Law and the New York State Social Services

law, and may have additional licenses or certifications under New York State Law, and provides or arranges for housing, supervision and personal care services to five or more eligible adults unrelated to the operator.

BAR - A business enterprise primarily engaged in the retail sale of alcoholic beverages for consumption on the premises.

BASEMENT - The portion of a building that is partly below grade which has more than 1/2 of its height measured from floor to ceiling above the average finished grade of the ground adjoining the building.

BREWERY - Producing beer in excess of 75,000 barrels a year and distributed to an unlimited geographic area.

BREWERY, MICRO (ALSO "MICROBREWERY") - A brewery dedicated to the small production of beer, less than 75,000 barrels a year, where the distribution of said beer is limited to a geographical area.

BUFFER - An additional yard area of specified dimension set forth in this Zoning chapter located between a rear or side property line or a zoning district line and a required rear or side yard. The "buffer" shall provide for adequate separation and protection from otherwise inharmonious or incompatible uses and shall not be used or otherwise encroached upon by any activities on the lot.

BUILDING - A structure constructed, erected or placed on the ground, with a roof supported by columns or walls.

BUILDING CONTRACTOR ESTABLISHMENT - A building or area of land where building materials, equipment and supplies are stored indoors or outdoors and used exclusively as part of a business involved in the construction of buildings. The on-site retail or wholesale trade of any contractor materials or supplies is not permitted accessory to a building contractor establishment. The materials processing of organic or inorganic materials including rock crushing, mulching, or soil screening is not permitted in conjunction with this use. The outdoor storage of materials and equipment accessory to a building contractor establishment shall require a special use permit from the Planning Board.

BUILDING LINE - A line drawn parallel to a street along the front of a building.

BUILDING, DETACHED - A building surrounded by open space and not attached to any other building on the same lot.

BUILDING, HEIGHT OF - The vertical distance measured from the average elevation of the proposed finished grade along all walls of a building to the highest point of the roof.

BUILDING, PRINCIPAL - A building in which the principal use of the lot on which it is located is conducted.

BULK - The volume and shape of a building or of a nonbuilding use in relation to lot lines, yards, center lines of streets, other buildings and all open spaces appurtenant to a building or a nonbuilding use.

BULK, NONCOMPLYING - That part of a building or nonbuilding use which does not conform to one or more of the bulk requirements set forth in this Zoning chapter.

BUS DEPOT - A property and associated buildings where a bus route starts or ends and where bus vehicles are stored or maintained. A bus depot may also include a passenger area where passengers

embark or disembark from bus vehicles.

CERTIFICATE OF APPROPRIATENESS - A permit issued by the Planning Board pursuant to this zoning chapter to authorize alteration, demolition or new construction of a historic property, building or structure as set forth in Article XIII of this Zoning chapter.

CLEARCUTTING - A method of harvesting where substantially all trees on a site are removed. Clearcutting is prohibited except where it is associated with land disturbance activities within the limits of disturbance shown clearly on an approved site plan or subdivision plan. Where clearcutting occurs on a site where an approved site plan or subdivision plan does not illustrate said clearing, the activity shall only be permitted where a tree removal permit has been issued.

CLEARING- Any activity that disturbs and removes the vegetative ground cover.

CLUSTER DEVELOPMENT - A subdivision plat or plats, approved pursuant to this Zoning chapter and consistent with the provisions of Section 7-738 of New York State Village Law, in which the Zoning chapter is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping in order to preserve the natural and scenic qualities of open lands. Open space shall be subject to a conservation easement.

CODE ENFORCEMENT OFFICER – The individual appointed by the Village Board of Trustees to administer and enforce all provisions of the Uniform Code, the Energy Code, and the Village of Hillburn Village Code including this Zoning chapter. Any references in this code to the term “Building Inspector” shall mean “Code Enforcement Officer”.

COMMERCIAL RECREATIONAL USE, INDOOR - Recreational activities conducted entirely within a building, including team or individual sports and related health and exercise facilities operated on a commercial or fee basis. An indoor recreation use may include accessory uses, such as food service facilities, meeting rooms, video or computer game facilities, sales of sport- or exercise-related equipment or clothing, and other accessory uses clearly incidental to the recreational activity. Indoor commercial recreation uses include, but are not limited to: a gymnasium, fitness center, bowling alley, skating rink; tennis and other racquet courts, field house, indoor track, indoor basketball, indoor swimming pool, billiards, indoor shooting range.

COMMERCIAL VEHICLE - Any vehicle licensed and used in the operation or conduct of a business, whether or not said vehicle is situated on the lot on which said business operates.

COMPREHENSIVE PLAN - The most recently adopted Village of Hillburn Comprehensive Plan.

COMMUNITY FACILITY - A place, structure, area or other facility used for and/or providing social and or recreational programs generally open to the public.

CONCRETE MIXING FACILITY- Any building and associated accessory uses and structures to store stone, sand, cementitious materials, and admixtures on site, and which combines, sells and delivers “ready-mix” concrete through the use of a concrete mixing truck.

CONFERENCE CENTER - A building or buildings designed for conferences, seminars, and meetings and used principally by conference center patrons, and which can include accessory uses such as restaurants or recreation facilities only upon approval of the Planning Board.

CONSERVATION EASEMENT - An easement, covenant, restriction or other interest in real property which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property.

COVERAGE, BUILDING - That percentage of the plot or lot area covered by the building area of the principal building.

COVERAGE, LOT – The percentage of the area of a lot covered by buildings, structures, parking areas, and other impervious surfaces on the lot. Impervious surfaces shall be deemed to include pervious pavers, pervious pavement and hard pack gravel.

CRAFT WORKSHOP - A place where artists, artisans or craftpersons use small batch manufacturing methods to produce food or craft goods for local sale, including but not limited to baked goods, soaps, olive oils, jewelry, pottery, sculpture, metal work, furniture making, textiles or glassblowing.

CULTURAL AND PERFORMING ARTS CENTER - An indoor or outdoor facility for the live performance of dance, drama, music, or similar artistic performances, including but not limited to amphitheatres, pavilions, concert halls and other musical and performing arts performance areas together with administrative, food service, interpretive and learning centers and museums, parking, seating facilities together with various other accessory uses to accommodate performing arts patrons. Instructional courses in the performing arts are allowed as an accessory activity to the center. This definition does not include facilities principally used to display movies or other non-live performances. Nothing herein shall be construed to permit adult entertainment uses in conjunction with a cultural and performing arts center.

DAY CARE – Uses that fall within one of the following categories:

CHILD DAY-CARE CENTER - A program or facility which is not a residence, and in which child day care is provided on a regular basis in accordance with Part 418-1, Child Day Care Centers, and as defined in Part 413 of Title 18, Department of Social Services. The name, description or form of the entity which operates a child day care center does not affect its status as a child day care center under these regulations. The maximum capacity shall be the maximum number of children authorized to be present at any one time and shall be as specified on the child day care center license issued by the New York State Office of Children and Family Services.

DAY CARE HOME, FAMILY - Family day care home shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children. Said facility shall be registered with the NYS Office of Children and Family Services.

DAY CARE HOME, GROUP FAMILY - Group family day care home shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a family home for seven to twelve children of all ages, except for those programs operating as a family day care home, which care for seven or eight children. A group family day care program may provide child day care services to four additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year in which school is not in session. Said facility shall be licensed by the NYS Office of Children and Family Services.

DAY SPA - A commercial use where a combination of professionally administered personal care treatments such as massages, facials, body wraps, salt scrubs, and other body treatments are performed. Manicures, pedicures, and hair salon uses may also be conducted. The facility is only visited for the duration of the treatment and only on a daily basis and the visitation does not involve an overnight stay or accommodation.

DEBRIS - Garbage, litter, automotive parts, leaves, twigs, branches, logs, stumps, yard clippings.

DELI (or DELICATESSEN) – A retail use that sells foods already prepared or requiring little preparation for serving, such as cooked meats, cheese, salads, and the like at a counter. The deli may sell magazines, newspapers, and other limited sundries.

DEMOLITION - The act of pulling down, destroying, removing, moving, relocating, or razing a property, building or structure or portion thereof, or commencing the work of total or substantial destruction with the intent of completing same, including removal.

DEMOLITION, EMERGENCY - A demolition authorized pursuant to the New York State Uniform Building Code, when, after inspection, it is determined by the Code Enforcement Officer or other authorized official, after consultation with the Village Board, that a regulated historic structure poses an imminent threat to the health or safety of the community that cannot be adequately mitigated and that immediate demolition is necessary to protect public health and safety.

DRYCLEANING DEPOT - A commercial use for pick-up and delivery only of dry-cleaned garments or laundry. Tailoring services are allowed accessory to a drycleaning depot.

DWELLING UNIT - A dwelling or portion thereof providing complete housekeeping facilities for one family. The term “dwelling unit” is synonymous with “residence”.

EXCAVATING - Any digging, scooping or other methods of removing earth materials.

EXCAVATIONS, SOIL MINING AND QUARRYING AS A PRINCIPAL USE- A commercial use involving the process of removing rock, sand, gravel or other minerals from the ground and sale of same in order to use them to produce materials for construction or other uses. A quarry is any such working on the surface of the earth where minerals are extracted and may also be referred to as “surface mine”, “pit”, “open pit”. Quarrying may involve the extraction of natural stone to produce building stone or dimension stone. The term “mining” is associated with places where soils are extracted whether above or below ground.

EXTERIOR ARCHITECTURAL FEATURES - The architectural style, general design and general arrangement of the exterior of any regulated historic property, building or structure, including but not limited to the kind and texture of the siding and other building materials and the type and style of the trim, doors, windows, steps, entryways, and other architectural features, but shall not include the kind and color of paint and light fixtures on any regulated structure.

FAMILY – A family shall consist of one of the following:

- A. One, two or three persons occupying a dwelling unit who pay a single shared amount for rental or mortgage purposes.
- B. Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

- C. There shall be a rebuttable presumption that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption are not the functional equivalent of a traditional family. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
- (1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.
 - (2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.
 - (3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses.
 - (4) The group is permanent and stable. Evidence of such permanency and stability may include:
 - (a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools under the care of a parent, legal guardian or equivalent;
 - (b) Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;
 - (c) Members of the household are employed in the area;
 - (d) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;
 - (e) Common ownership of furniture and appliances among the members of the household;
and
 - (f) The group is not transitory or temporary in nature.
 - (5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.
- D. Regardless of the composition of the family, the maximum occupancy of any residence shall be established based on the requirements of the New York State Property Maintenance Code.
- E. Individuals residing in institutional uses, boarding homes, fraternities, sororities, clubs, associations, supervised or transient housing or other similar forms of housing shall not be considered a family.

FARM MARKET – A building and premises for the indoor or outdoor year-round sale of agricultural products grown primarily within the Hudson Valley region.

FARM STAND — An accessory structure or vehicle used for the seasonal display and sale of agricultural products grown on the premises on which the stand is located, and which uses its adjacency to a roadway to attract customers.

FEMA – An acronym for “Federal Emergency Management Agency”.

FENCE - An unroofed wall or barrier or construction of materials made from concrete, wood, plastic, wire, stone or other materials erected on premises for the purpose of enclosing an area of land, including berms and retaining walls if located beneath same. A substantially opaque hedge, shrubs or other materials or other living fence shall be regulated as a fence.

FILLING - Any depositing or stockpiling of earth materials.

FLOOD HAZARD AREA or AREA OF SPECIAL FLOOD HAZARD - The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard." Refer also to Chapter 130, Flood Damage Prevention, of the Village of Hillburn Code.

FLOOD INSURANCE RATE MAP (FIRM) - An official map of the Village of Hillburn on which the FEMA has delineated the areas of special flood hazard and the risk premium zones applicable to it. Refer to Chapter 130, Flood Damage Prevention, of the Village of Hillburn Code.

FLOOD, ONE-HUNDRED-YEAR - A flood of such magnitude as may reasonably be expected to be equaled or exceeded on average once every 100 years; the term also means that level of flooding having a one-percent probability of occurrence in any year. Refer to Chapter 130, Flood Damage Prevention, of the Village of Hillburn Code.

FLOODPLAIN AREA or FLOOD-PRONE AREA - Any land area susceptible to being inundated by water from any source. Refer to Chapter 130, Flood Damage Prevention, of the Village of Hillburn Code.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Refer to Chapter 130, Flood Damage Prevention, of the Village of Hillburn Code.

FLOOR AREA OF BUILDING, GROSS - The sum of the gross horizontal areas of the several floors of a building or group of buildings and accessory buildings on the same lot, except that in residential buildings, cellar and attic floor area that is not livable floor area shall be excluded. The area of enclosed roofed porches and roofed terraces shall be included. All dimensions shall be measured from exterior faces of walls or from the center line of walls separating two buildings.

FLOOR AREA RATIO - The gross floor area of all buildings on a lot divided by the area of such lot.

FLOOR, GROUND - The lowest story of a building entirely above the level of the ground around the building.

GARAGE, AUTOMOTIVE - Any commercial garage other than a private garage, which is available to the public, operated for gain, and which is used for storage, repair, rental, greasing, servicing, adjusting or equipping of automobiles or other motor vehicles, but excluding buses and heavy duty vehicles.

GARAGE, PRIVATE - An accessory garage for the storage of vehicles and maintained primarily for the convenience of the occupant or occupants of the principal building, and in which no business, occupation or commercial services are conducted.

GENERAL STORE – A small retail store that carries a wide variety of merchandise including groceries, hardware, electronic goods, and clothing which serves the neighborhood within which it is located, but does not prepare food for general consumption on or off the premises. A “second hand” store, i.e., any store which resells goods, shall not be construed to be allowed as a “general store”.

GRADING – The act of excavating or filling of earth materials, or any combination thereof.

GROCERY STORE - a retail shop that sells food and miscellaneous other household goods and is usually operated on a self-service basis. A grocery store may also have a deli counter, butcher, florist, bakery, and other service counters associated with its operation.

GUEST SLEEPING ROOM - Any habitable room used as a sleeping accommodation for transient occupancy in a resort hotel.

HAZARDOUS MATERIALS - Material which presents an existing or potential hazard to human health or the environment including, without exception, all residual oil, hydrocarbon products, including but not limited to gasoline, oil, fuel, and diesel oil, and also any other toxic, caustic, or corrosive chemicals, radioactive materials or other substances listed in the Title 40 of the Code of Federal Regulations of the New York State Department of Environmental Conservation Rules and Regulations for Hazardous Material (6 NYCRR 597)

HEALTH FITNESS FACILITY - A commercial use where active exercise and related activities are performed utilizing weight control or muscle-building equipment or apparatus for the purpose of physical fitness. A health fitness facility may also include, as accessory uses, services and activities provided in conjunction with a day spa, a child daycare room, physical therapy activities, and refreshments.

HOME OCCUPATION, MAJOR – Any nonresidential use conducted wholly or partly in a dwelling unit by the owner of same, which is clearly incidental to the use of the dwelling for living purposes and does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign and where customers, clients or sales representatives enter the premises and in which not more than one nonresident person is employed.

HOME OCCUPATION, MINOR – Any nonresidential use that is incidental and clearly subordinate to an existing residential use, conducted wholly within the residence which does not change the residential character of the residence or vicinity and where no non-resident employees, customers or clients enter the premises and where no signage, exterior storage of products or equipment are required. This use is permitted by right accessory to a residence.

HOTEL, RESORT - A commercial use consisting of overnight accommodations with guest sleeping rooms within a building or group of buildings that incorporate indoor and/or outdoor recreational facilities as integral and accessory uses of the overall design of the resort. A resort hotel may also include meeting rooms or a conference center, dining facilities, and catering space. No guest sleeping room shall contain an individual kitchen or cooking facilities.

INFESTATION - The presence of insects, rodents, vermin or other pests.

JUNKYARD - An area of land with or without buildings used for or occupied by the storage, outside of a completely enclosed building, of used and discarded materials such as wastepaper, rags or scrap metal, used building materials, house furnishings, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The storage

of two or more wrecked or inoperable vehicles or parts thereof, whether or not licensed, for a period of 30 days or more shall be deemed to constitute a junkyard.

KENNEL - Any building, structure or premises in which domesticated household pets, such as dogs and cats, are kept, boarded or trained. The keeping of five (5) or more adult dogs or cats on an individual shall be deemed a kennel and is not permitted.

LABORATORY AND RESEARCH FACILITY - A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured primarily for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed and wherein there is no display of any material or products. A "laboratory" shall meet the performance standards set forth in this Zoning chapter.

LAND DISTURBANCE ACTIVITIES - Any activity which may result in soil erosion from water or wind and the movement of sediments into waters, including, but not limited to, clearing, grading, excavating, transporting, and tilling of land, except that the term shall not include such minor land disturbance activities as: home gardens and individual home landscaping and maintenance work; individual service connections and construction or installation of public utility lines; septic tank lines or drainage fields unless included in an overall plan for land disturbance activity relating to construction of the building to be served; disturbed land areas for commercial or noncommercial uses less than 5,000 square feet in size; installation of fence and sign posts or telephone and electric poles and other kinds of posts and poles; emergency work to protect life, limb or property. This definition also includes any movement of soil, sand, rock, and other earth materials from one location to another, other than such movement incidental to grading on the same site, where such movement results in the destruction of the vegetative cover either by tracking or the installation or deposition of earth materials to the extent that erosion and sedimentation will result.

LAND-DISTURBANCE PERMIT - A permit issued by the Village of Hillburn for the clearing, filling, excavating, grading or transporting of soils, vegetation, or combination thereof.

LANDSCAPE MATERIALS, RETAIL AND WHOLESALE TRADE – The sale of landscape materials, including the sale of trees, shrubs, or plants. Sale and storage of garden supplies, including hand tools, mulch, soil, decorative rock, pavers, and similar non-vegetative materials shall be allowed only where clearly incidental to the principal use and said accessory materials shall not occupy more than 25 percent of the gross lot area. The on-site materials processing of organic or inorganic materials including but not limited to rock crushing, mulching, or soil screening is not permitted.

LAUNDROMAT - A commercial establishment equipped with individual clothes washing or drying machines that are operated by the retail customer.

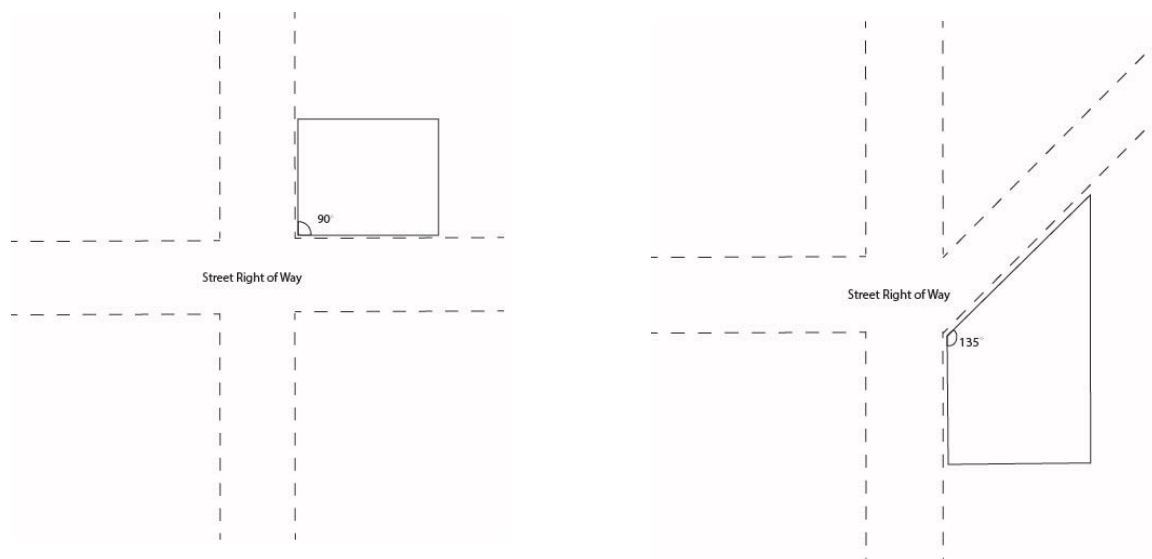
LED – Light-emitting diode.

LIGHT INDUSTRY - A use engaged in the manufacture, from previously prepared materials, of finished products or parts, including materials processing, fabrication, assembly, treatment, packaging, and incidental storage, sales, and distribution of such products, with said products targeted to end consumers rather than other businesses for further processing. This definition excludes basic industrial processing that converts raw materials into parts and products, starting immediately after the raw materials are either extracted from minerals or produced from basic chemicals or natural substances, such as automobile, mining, petroleum, and steel industries. Examples of light industry include the manufacturing of clothes, shoes, furniture, consumer electronics and household items.

LIVABLE FLOOR AREA - All spaces within the exterior walls of a dwelling unit exclusive of garages, garage breezeways, unheated porches, heating and mechanical equipment rooms and basements having a window area of less than 20% of the square foot area of the room. Habitable floor area shall include all spaces not otherwise excluded above, such as: principal rooms; utility rooms; bathrooms; all closets and hallways opening directly into any room within the dwelling unit; stairways; basements; and all attic area having a clear height of 7 1/2 feet or more from finished floor level to roof rafter.

LOT - One or more contiguous parcels of land under single ownership or control, designated by the owner at the time of filing an application for building permit as a tract to be used, developed or built upon as a unit. It may or may not coincide with the deed description thereof or the boundaries of the same as shown on the Tax Assessment Map of the Village or a map filed for record or otherwise, and it may be subsequently subdivided into two or more lots upon approval of the Planning Board, provided all such lots conform to the bulk requirements of the applicable zoning district.

LOT, CORNER - A lot at the junction of and abutting on two (2) or more intersecting streets where the interior angle of intersection of the lines dividing the lot from the street does not exceed one hundred thirty-five degrees (135). A lot abutting a curved street shall be deemed a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than one hundred thirty-five degrees (135).



LOT, DEPTH OF - The horizontal distance between the front and rear lot lines, measured at any point along the front lot line to a point parallel to same along the rear lot line.

LOT, FLAG - A lot possessing narrow frontage on a road but not the minimum required lot width as measured at the required front yard line but having the required lot width measured at a point somewhere in the interior of the lot. The lot characterized by a distinctive shape; i.e., narrow frontage on a public road connected by a narrow strip of land for access to the major portion of the lot. On a map the individual lot looks like a flag on a pole. Flag lots are not permitted.

LOT FRONTAGE - The distance measured along the full length of the front lot line. For purposes of meeting minimum lot frontage requirements, the minimum lot frontage must be contiguous, i.e., minimum lot frontage shall not be met by the sum of multiple frontages.

LOT LINE - A boundary line of a lot.

LOT LINE, FRONT - The boundary of a lot along an existing or proposed street. The Code Enforcement Officer, after consultation with the property owner and a determination of the safety of ingress and egress, shall determine the street lot line to which the dwelling shall front and obtain access, except that where a new corner lot is being created as part of a subdivision or access is being determined as part of site plan review, the Planning Board shall specify the front lot line to which a dwelling shall front and obtain access.

LOT LINE, REAR - That boundary of a lot which is most distant from and is or is most nearly parallel to the front lot line. All lots shall have a rear lot line no less than 10 feet in length. Triangular or “pie-shaped” lots that come to a corner in the rear yard are not permitted.

LOT LINE, SIDE - Any boundary of a lot which is not a front lot line or a rear lot line.

LOT, THROUGH – A lot, other than a corner lot, having lot frontage on two streets.

LOT, WIDTH OF - The horizontal distance across a lot between side lot lines measured at two locations: at a distance from the front lot line equal to the minimum required depth of the front yard and from the rear lot line equal to the minimum required depth of the rear yard.

MATERIALS PROCESSING – Any use involving the processing of stone, soil, wood, metal, or other raw materials through crushing, sifting, sorting, material screening, splitting, blasting or other means. Except in connection with a principal use specifically allowed in Table A, Schedule of General Use and Bulk Requirements, materials processing is prohibited.

MUSEUM - A place or building where objects of historical, artistic, or scientific interest are exhibited, preserved, or studied and open for viewing by the general public.

MUNICIPAL USES, FACILITIES AND SERVICES – Governmental buildings and uses that are owned or operated by the Village of Hillburn, the Hillburn Fire Department, and other municipal entities so determined by the Village Board of Trustees.

NEW CONSTRUCTION - The construction, erection or installation of any new building or structure that requires a building permit.

NONBUILDING USE - A principal use of land to which buildings or structures on the lot, if any, are accessory, such as a trailer camp, junkyard, public parking lot, an advertising sign or an open storage yard for materials or equipment, and on which the building, if any, may be used:

- A. For processing the materials stored in such yard;
- B. For storage of the more valuable equipment and materials than that generally stored in the open;
or
- C. As an office or place of shelter for the keeper of the yard.

NONCONFORMING STRUCTURE - A structure, lawfully established prior to the effective date of this chapter, which does not conform to the bulk or dimensional requirements of this chapter including for the district in which it is located, regardless of the use to which such structure is put.

NONCONFORMING USE - Any use of a building, structure, lot or land, or part thereof, which was lawfully established prior to the effective date of this chapter, which does not conform to the use regulations of this chapter for the district in which it is located.

NURSERY SCHOOL – A facility serving children ages 2-5 years old where classes meet anywhere from one to five days per week for less than 3 hours per class and follow the public school year calendar. No nursery school shall be operated during the summer months when the public school is not in session. For purposes of this zoning chapter, registration with the New York State Education Department is required.

NYS – New York State.

OFFICE – A use where services are performed involving predominately administrative or clerical operations for business, professional or medical purposes as further defined below. A lot which includes an office which occupies a lesser area than other activities on the site, e.g., the storage of contractor equipment, shall not be deemed an office.

- (1) **Business:** A place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, insurance brokers, real estate brokers and persons with similar occupations.
- (2) **Professional:** An office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge. A professional office may include but not be limited to the office of an accountant, architect, consultant, engineer, or attorney.
- (3) **Medical:** An office devoted to medical or dental care dispensed to persons on an outpatient basis by physicians or other medical professionals licensed in the State of New York, either singly or as a group, which may also offer laboratory and diagnostic facilities to patients on an outpatient basis.

OFFICIAL MAP - The Official Map, adopted by the Village Board, of that part of the Village of Hillburn showing the streets, highways, parks and drainage systems laid out on such map, including any references to more detailed maps and studies. The "Official Map" is final and conclusive with respect to the location and width of streets, highways, drainage systems and parks shown thereon; and the "Official Map" is hereby declared to be established to conserve and protect the public health, safety and general welfare.

OVERLAY ZONING DISTRICT – A zoning district that imposes regulations for a specific area that are in addition to the regulations that regulate the base zoning district.

PARKING AREA or LOT - A portion of a lot accessory to the principal use used for the storage or parking of motor vehicles directly incidental to the principal use.

PARKING SPACE - An off-street parking space or stall accessible and available for the parking of one motor vehicle and meeting the dimensional requirements specified in Article VIII.

PARTY WALL - A wall partition separating occupied rooms or spaces.

PERFORMANCE STANDARD - A criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, and glare or heat generated by or inherent in certain uses of land or buildings.

PERMITTED USE – A principal use permitted as of right within a zoning district. Also referred to as a use allowed “by right”. It is a use of property and structures in a manner consistent with that which is listed as permissible in the zoning district in which the use is or is to be located.

PERSON - Any individual, partnership, firm, company, limited liability company, association, society, corporation, group or similar entity.

PERSONAL SERVICE USE - A commercial use including but not limited to barber shops, hair, nail, and tanning salons, shoe repair shops, bicycle repair shop, appliance repair shop, tailor and seamstresses, financial services, in which the product offered is the work or action performed.

PET – A domesticated animal kept by a household for companionship and enjoyment such as cats, dogs, birds and hamsters, which are normally and conventionally boarded in a residence or on a residential lot.

PLACE OF WORSHIP - A building or structure or lot used exclusively for the conduct of organized religious services.

PLANNING BOARD – The Planning Board of the Village of Hillburn, New York.

PORTABLE STRUCTURE or BUILDING - A structure or building, whether above or below grade level, shall be considered portable if designed or intended for seasonal rather than year-round use, is not attached to a principal building, and/or not attached permanently to the ground.

PUBLIC UTILITY - Any person, firm, corporation, or governmental agency, duly authorized to furnish to the public, under governmental regulation, electricity, gas, petroleum, steam, water, sewer, cable television, or telephone, including transmission and distribution facilities and similar services. Also, a municipally owned wastewater treatment or water supply system, or a water works corporation or sewage works corporation formed under the provisions of the New York State Transportation Corporations Law and approved by the Village Board are included in this definition. A solar facility shall not be considered a “public utility” for purposes of this Zoning chapter.

REMOVAL OF A STRUCTURE - A type of demolition that involves relocation of a regulated historic property, building structure or portion thereof to another location on the same lot or on another lot.

RESIDENCE - A building or portion thereof designed or used exclusively for residential occupancy and containing complete housekeeping facilities for one (1) family only, having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. The term does not include mobile homes, automobile house trailers, motels, hotels, boarding house, convalescent home, fraternity or sorority house, inn, lodging, nursing or other similar place of habitation or other similar building. The term “dwelling unit” shall be synonymous with “residence”.

RESIDENCE, ONE-FAMILY DETACHED- A building on a single lot designed for and occupied exclusively by one family as defined by this chapter.

RESIDENCE, TWO FAMILY - A building on a single lot consisting of two residences which building either shares a common floor or ceiling, or where said residences are separated by a party wall. Each residence shall be occupied exclusively by one family as defined by this chapter.

RESIDENCE, MULTIPLE FAMILY - A building on a single lot consisting of three (3) or more residences. Each residence shall be occupied exclusively by one family as defined by this chapter.

RESTAURANT, SIT DOWN - Any establishment where food is commercially sold primarily for on-premise consumption to patrons seated at tables where food is served at the table. Any facility making use of a carhop or parking lot to serve food to customers in vehicles, or primarily for the consumption of food to be eaten off premises shall not be considered a restaurant for the purpose of this zoning chapter and shall be deemed a "take out restaurant." A restaurant where less than 50 percent of the gross floor area of the restaurant is dedicated to a dining room equipped with tables and seats shall be deemed a "take out restaurant". Use of a carhop or parking lot to bring food service to a motor vehicle or use of a drive through facility is not permitted by this Zoning chapter.

RESTAURANT, TAKE OUT - Any establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building, or for carryout, and where either: 1) foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers; or 2) where there is no table service. Use of a carhop or parking lot to bring food service to a motor vehicle or use of a drive through facility is not permitted.

RETAIL USE – A commercial use where merchandise is sold to the general public for personal or household use or consumption, including but not limited to a florist, hardware store, pharmacy, convenience store, stationary store, book store, clothing store, shoe store, and jewelry store. The storage of merchandise on the premises shall be clearly incidental and accessory to the space dedicated to retail sale of products.

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

SEQRA – The New York State Environmental Quality Review Act and its implementing regulations.

SITE PLAN - A rendering, drawing, or sketch prepared to specifications set forth in this chapter which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

SHOPPING CENTER, DESIGNED - A building or buildings with accessory parking and loading areas providing for a variety of retail, commercial and other nonresidential uses, as may be allowed in this Zoning chapter, managed as a unit on a single lot and which shall have the following characteristics:

- (1) Unified architectural treatment and signage and identifiable theme relating each of the commercial establishments within.
- (2) A common interrelated parking and site circulation system with consolidated vehicular access to a street.
- (3) Individual uses and/or buildings oriented to pedestrian traffic by access signs and display, which are not generally visible or only incidentally visible to the parking areas.
- (4) Shared amenities provided to patrons, such as benches, site decoration and landscaping and park

area, restrooms and the like.

(5) Common spaces.

SHORT-TERM RENTAL – Also referred to as an “Air BNB” and other such similar terms, the rental of any residence for a time period less than 30 consecutive days to a non-occupant visitor of the dwelling whether or not for commercial gain or in exchange to gain rental occupancy in a residence within or outside the Village. A short-term rental is a prohibited use.

SIGN - Any structure or part thereof, or any device attached to the exterior of a building or painted or represented thereon, which shall display or include any letter, work, model, banner, flag, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The term "sign" includes a billboard but does not include the flag or insignia of any nation or group of nations, state, city, village or other governmental unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

SIGN, ANNOUNCEMENT - Any sign used to announce the use of the lot or direction or location of buildings and structures on the lot for an office, home occupation, religious, charitable or other institutional use.

SIGN AREA - The area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure, that can be drawn around the outside perimeter of a sign including the frame but excluding supports, if any, unless said supports are illuminated. Where a sign has back to back faces, only one face shall be used in determining the sign area. In computing the area of a neon tube, a string of incandescent lights or similar device outlining any part of a building or hung upon any part of a building or lot, such device shall be deemed to have a width of one foot.

SIGN, BUSINESS IDENTIFICATION - A sign containing the name of the establishment and information on the business conducted therewith, but specifically excluding phrases directing an action (i.e., stop, buy, eat). Business signs shall contain only the name or names of the lawful tenants or their trademarks and shall identify only the business, profession, general goods or services conducted or dispensed on the premises.

SIGN, FAÇADE – Any sign attached to a wall of a building. A façade sign may be a wall sign, iconic sign or projecting sign.

SIGN, FLASHING - Any illuminated signs on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

SIGN, FREESTANDING - Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

SIGN, FREESTANDING DIRECTORY - A freestanding sign which identifies the multiple nonresidential uses and tenants being conducted on the property on which it is located.

SIGN, ILLUMINATED - Any sign illuminated by electricity, gas or other artificial light either from the interior (direct illuminating) or exterior (indirect illumination) of the sign, and which includes reflective and phosphorescent light.

SIGN, MONUMENT-TYPE - A freestanding sign constructed at ground level with a height not greater than five (5) feet from the ground level and not supported by poles.

SIGN, PERMANENT - A sign permanently affixed to a property or building by fastenings intended to provide such permanence.

SIGN PLAN - A plan approved by the Planning Board depicting the size, location, materials and content of a sign or signs, which plan shall identify the permitted sign display for all signs on a property.

SIGN, PROJECTING - A sign which is attached to a building wall and which extends more than 10 inches perpendicular to the face of such wall.

SIGN STRUCTURE - The supports, uprights, bracing and framework for the sign.

SIGN, TEMPORARY – Any sign or banner which is erected for a limited period of time to promote or advertise any activity, business, or event.

SIGN, WINDOW - A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material and/or located inside a building and within four (4) feet of the window.

SPECIAL USE - A use for which the Planning Board may grant a permit, subject to general and/or special permit conditions pursuant to the provisions of Sections 250-52 and 250-53 of this chapter.

STORY - That portion of a building between the surface of any floor and the surface of the floor next above, or if there is no floor above it, the space between the floor and the ceiling or roof surface directly above it. A basement shall be counted as a story for the purposes of this chapter when more than 1/2 of such basement height is above the established curb level or above the average finished grade level around such basement where curb level has not been established. No basement space shall be used for bedrooms or sleeping purposes unless the height thereof from finished floor to ceiling is at least seven feet six inches and at least five feet thereof is above the average level of the adjacent ground and unless the window area thereof equals at least 10% of the floor area of such space so used.

STORY, HALF - Livable space above the highest full story of a building which contains or is designed to contain finished rooms under the roof accessible by a permanent stairway, which rooms shall have a clear height of at least four (4) feet from finished floor to pitch of rafter and a clear height of at least seven feet six inches from floor to ceiling over at least fifty percent (50%) of the area of each such room. If the aggregate livable area of such space under the roof, including area in stairways, halls and enclosing partitions, exceeds 50% of the gross floor area of the floor immediately below, it shall be included as a full story in computing the height of a building; but if such aggregate livable area is less than 50% of the gross floor area of the floor below, it shall be included as a half story in computing the building height.

STREAM - A continuous or intermittent flow of water through a defined channel.

STREET - A public or private way which affords principal means of access to abutting properties.

STREET LINE - The dividing line between a lot and the street right-of-way.

STRUCTURE - Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including without

limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc., and other similar construction. The term structure shall include "building" as well as receiving and transmitting commercial, radio, television, cellular and other utility communication towers.

SWIMMING POOL - A non-natural body of water, not operated for gain, intended to be used for swimming or bathing by any family or persons residing on the premises and their guests, which has a depth greater than four (4) feet. Notwithstanding anything to the contrary, any body of water having a depth of less than two feet shall be exempt from regulations imposed on swimming pools by this chapter, and any body of water with a depth greater than two feet but less than four feet shall be exempt from the requirements of this chapter except that any stairway, gate or fence shall be subject to approval by the Code Enforcement Officer. All swimming pools regardless of depth shall comply with the New York State Uniform Code.

TOURISM-RELATED RETAIL USES - Retail sales or rental of merchandise used in tourism-related businesses. For purposes of this definition, tourism-related retail uses shall be limited to recreational equipment sales or rental of indoor or outdoor recreational equipment, recreation clothing outfitter, and guide services.

TOURISM-RELATED WINERY, BREWERY, DISTILLERY OR SIMILAR FOOD PROCESSING USE – Businesses involved in the small-scale production and crafting of beverages or food from vegetables, fruits, grains or dairy ingredients only, for final consumption, including a winery, brewery, ice cream, confectionary, bakery, and cheese shop, and where an essential and required element of the business is the operation of tours to display the food preparation process to visitors. The retail sale of products made on the premises or to market on the premises, as well as a dining, tasting, or drinking area is allowed accessory to the principal use. Said retail sales and dining areas shall not exceed 40 percent of the gross floor area of the total area of buildings on the site. Food processing involving poultry, beef, fish, or similar meat products is prohibited.

TRAILER - Any vehicle mounted on or capable of being mounted on wheels, movable either by its own power or by being drawn by another vehicle, and including those vehicles capable of use for living, sleeping quarters, or so as to permit cooking, or equipped to be used for offices, storage or other commercial use. The term "trailer" shall also include vehicles, if mounted on temporary or permanent foundations with the wheels removed.

TRAILER PARK OR TRAILER CAMP- A parcel of land where two or more trailers are parked or which is used or held out for the purpose of supplying to a residential tenant a space for two or more trailers for living and sleeping quarters.

WHOLESALE OR WAREHOUSE USE - A use engaged principally in the indoor storage, wholesale trade, or distribution of manufactured products, supplies and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazardous conditions which are herein prohibited. Nothing herein shall be construed to permit retail sale of merchandise to the general public or by membership.

UNOCCUPIED HAZARD - Any building or part thereof which remains unoccupied for a period of more than one year, with either doors, windows or other openings broken, removed, boarded or sealed up.

USE, CHANGE OF - A change in the existing use of a building or property from a use listed allowed either by right or by special use permit to a different listed use in the same zoning district, or to any use not permitted within the same zoning district.

USE, PRINCIPAL - The specific and primary purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE, AREA – The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or bulk requirements of this Zoning chapter.

VARIANCE, USE – Authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this Zoning chapter.

VILLAGE BOARD – The Village Board of Trustees of the Village of Hillburn.

YARD - The open space on a lot extending along a lot line, between such lot line and a principal building or buildings or nonbuilding use occupying such lot.

YARD, FRONT - A yard extending the width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

YARD, REAR - A yard extending the full width of the lot and situated between the rear line of the building and the rear line of the lot.

YARD, SIDE - A yard situated between the building and side line of the lot and extending from the front yard to the rear yard. The width of a side yard shall be measured from the side lot line towards the building.

YARD, REQUIRED - A required yard is that portion of any yard extending inward from a lot line the minimum distance specified in the bulk requirements for the district in which the lot is located.

YARD, REQUIRED FRONT –The required yard measured between the front lot line and a line drawn parallel thereto.

YARD, REQUIRED REAR – The required yard measured between the rear lot line and a line drawn parallel thereto.

YARD, REQUIRED SIDE – The required yard measured between a side lot line and a line drawn parallel thereto.

ZBA – Village of Hillburn Zoning Board of Appeals.

ZONING CHAPTER – The Zoning Local Law of the Village of Hillburn, New York, as may be amended from time to time. It is also referred to as the Zoning chapter herein.

Article V Districts

§ 250-8. Establishment of districts.

- A. Zoning districts. For the purpose of this chapter, the Village of Hillburn is hereby divided into the following zoning districts:

OS	Open Space
R-60	Rural Residence (60,000 square feet)
R-9	Low Density Residence (9,000 square feet)
R-6	Medium Density Residence (6,000 square feet)
LS	Local Shopping
GC	General Commercial
RED	Regional Economic Development
LI	Light Industrial
VC	Village Center Overlay
TOD	Transit Oriented Development Overlay
RPO	Ridgeline Protection Overlay

- B. District purposes. The zoning districts set forth herein have been established for the following primary purposes:

- (1) OS, the Open Space zoning district encompasses properties located within Harriman State Park, a segment of the Palisades Interstate Park system and properties that are owned at present by the Village of Ramapo, and which are located along the Ramapo River and contain parkland or water supply wells, and Village park properties. The intent of this district is for the land to remain as open space and to be used for passive recreation.
- (2) R-60, the Rural Residence zoning district is a residential zoning district encompassing mostly vacant land and low density residential uses. These areas of the Village are mountainous, and much of it is constrained by steep slopes, shallow depth to bedrock, and lack of adequate transportation access or centralized utilities. The intended primary land use for this area is open space and single family detached residences.
- (3) R-9, the Low Density Residence zoning district is a residential zoning district encompassing large portions of the existing residential neighborhoods within the Village in the vicinity of Lake Avenue, Terrace Avenue, and Fifth Street, Boulder Avenue and the upper reaches of Sixth Street. Within the central area of the Village, lands are flat, and soils are conducive for building development. These areas are generally served by central water and sewer. This zoning district is intended for one-family detached residences. Two-family residences would be allowed but would require Planning Board review and approval and would require larger lots to accommodate two family residences. Also, fire, police, and similar public Village buildings as well as public parks are allowed.
- (4) R-6, the Medium Density Residence zoning district is a residential zoning district encompassing large portions of the existing residential neighborhoods within the Village along Second and Third Streets, residential properties along NYS Route 17, and smaller properties along Fox Hollow Road and Sixth Street, and along Rockland, Lake, and Mountain Avenues, closer to Fourth Street. Within the central area of the Village, lands are flat and soils are conducive for

building development. These areas are generally served by public water and sewer. In general, this area is intended for one-family detached residences. Two-family residences are allowed but require Planning Board review and approval. Fire, police, and similar Village public buildings would also be allowed, as well as public parks.

- (5) LS, the Local Shopping zoning district is a nonresidential zoning district encompassing properties located along Route 17 to the north of the Hillburn Youth Center. This district abuts residential properties along Boulder Avenue, and Fifth Street and Mountain Avenue. Properties within this district that abut a residential neighborhood are required to maintain an adequate and significant buffer to screen views of nonresidential uses, and help mitigate operational impacts such as noise generation, odors, night lighting levels, and other emissions. The buffer will be a “no disturbance” zone, i.e., it must be retained in its natural state and supplemented with additional screening and buffering, including landscaping and fencing. The Local Shopping Center zoning district is intended to accommodate a mix of smaller scale offices, medical offices, retail uses, banks, restaurants, and similar uses that would serve the needs of Village residents. Building shall be limited to a maximum building size so as to fit with the Village’s character and are subject to architectural review. Multi-tenant buildings shall be subject to a review process wherein tenant changes shall be monitored by the Code Enforcement Officer and, where required, site or amended site plans shall be submitted for approval.
- (6) GC, the General Commercial zoning district is a nonresidential zoning district encompassing properties that are located along NYS Route 59. This area is generally situated away from the core residential neighborhoods in the Village. A combination of light industrial and general commercial uses are allowed, including automotive uses. Multi-tenant buildings shall be subject to a review process wherein tenant changes shall be monitored by the Code Enforcement Officer and, where required, site or amended site plans shall be submitted for approval. Disclosure of all uses within multitenant buildings is required to ensure that emergency service providers are aware of the materials and uses being housed in these buildings, and that the health, safety and welfare of the Village is protected. Uses shall be subject to architectural review.
- (7) RED, the Regional Economic Development zoning district is a nonresidential zoning district located within proximity to Interchange 15A of the New York State Thruway. Given this zone’s location adjacent to a major regional interchange, properties shall be zoned to allow larger-scale regional shopping and commercial uses including hotels, tourism business-related uses, neighborhood shopping, restaurants, personal service uses, and major medical facilities. Uses shall be subject to architectural review. Multi-tenant buildings shall be subject to a review process wherein tenant changes shall be monitored by the Code Enforcement Officer and, where required, site or amended site plans shall be submitted for approval.
- (8) LI, the Light Industrial zoning district is a nonresidential zoning district encompassing the land area on either side of the New York State Thruway and the Metro-North Railroad right-of-way, and is predominately occupied with various transportation rights-of-way, utility transmission lines and facilities. This zoning district allows public utilities and facilities, subject to special use permit and site plan approvals related to any expansions or alterations of these facilities. Given the significant visual and environmental implications these resources have on Hillburn, the Village desires that the utility providers work cooperatively with the Village when designing and implementing program and facilities upgrades in order to improve the visual and environmental quality of Hillburn. Uses shall be subject to architectural review. Multi-tenant buildings shall be subject to a review process wherein tenant changes shall be

monitored by the Code Enforcement Officer and, where required, site or amended site plans shall be submitted for approval.

(9) VC, the Village Center overlay zoning district encompasses properties located in the historic traditional center of the Village, i.e., properties that front to Fifth Street, between Mountain and Rockland Avenues. This traditional center of Hillburn includes a U.S. Post Office, Village Hall and Court, and the Hillburn Fire Department. Pre-existing multifamily residences are clustered in this location. This zoning district will allow the uses that are allowed within the underlying base zoning district, and would also allow pre-existing multifamily residences, a deli and arts and crafts type uses. Nonresidential uses shall be subject to architectural review.

(10) TOD, the Transit Oriented Development overlay zoning district is located on the west side of NYS Route 59 and encompasses a collection of light industrial/heavy commercial buildings that are located between the highway and the railroad right-of-way. The TOD overlay is intended to facilitate construction of a transit facility, e.g., a train station, train parking, or bus/train intermodal facility, and to result in the cleanup of the brownfields located in the overlay district. Any transit facility is required to include retail, personal service, and restaurant uses and multifamily residences with a varied bedroom mix. A percentage of the residences shall be affordable and made available first to Village residents, volunteers, and employees. Adequate and safe sidewalk connections to the Village shall be required, including over the Fourth Street Bridge and into the Village of Suffern. An improved streetscape and landscaping along Route 59 and Fourth Street shall beautify this gateway into the Village. The Village Board of Trustees approves any development allowed by this overlay. Uses shall be subject to architectural review.

(11) RPO, the Ridgeline Protection Overlay district is intended to protect the visual and community character of the mountaintops which are an environmental asset and serve as an important visual backdrop to Hillburn's neighborhoods. Certain disturbances to the ridgelines shall require Planning Board review and approval in accordance with Section 250-16 of the Zoning chapter.

C. In certain instances, and subject to specific approval by the Village Board in each case, the provisions of § 250-18C, Cluster development, may be applied to residential subdivisions.

§ 250-9. Zoning Map.

A. Said districts are bounded and defined as shown on the map entitled "Zoning Map of the Village of Hillburn, New York," as amended, which together with all explanatory matter thereon is hereby made part of this zoning chapter. A copy of the Zoning Map shall be kept in the offices of the Village Clerk and shall be made available for review by the public. All amendments to the zoning map shall be identified by the number of the local law and date of its adoption and the Village Clerk shall affix his or her initials next to each amendment upon local law filing with the New York State Department of State. The Village Clerk shall sign the map as the official Zoning Map of the Village of Hillburn, New York.

B. Base zoning districts. All zoning districts are deemed base zoning districts, except for any overlay district set forth in Article V of the zoning chapter.

C. Open Space (OS) zoning district. Any parcel of land that is in municipal, public or utility ownership and zoned Open Space which parcel is transferred into private ownership shall be deemed to be zoned R-60 zoning district, and all standards set forth in this Zoning Chapter and other applicable regulations of the Code of the Village of Hillburn shall apply.

§ 250-10. Rules for establishing district boundaries.

- A. Along center line of streets and right-of-way lines. Where a boundary line is shown as approximately following the center line of a street, highway or railroad center line or a street, highway or railroad right-of-way line, such center line or right-of-way line shall be construed to be the zoning district boundary line.
- B. Along lot lines. Where a boundary line is shown following a lot line, such lot line shall be construed to be said boundary.
- C. Along watercourses. Where a boundary line follows a river or stream, such boundary shall coincide with the center line of such river or stream. For any present or future lake, pond, reservoir, river or other body of water, the regulations of the district in which they are located shall apply.
- D. Parallel to physical features. Where a district boundary line is shown as approximately parallel to a street, highway, stream or railroad line, such boundary shall be construed as being parallel thereto and at such distance from the center line or right-of-way line thereof as is indicated on the Zoning Map.
- E. Interpretation of Zoning Map. Where a dimension is indicated on the Zoning Map, such dimension shall control. However, in the absence of a specific dimension being indicated on the Zoning Map, the dimension shall be determined by using the map scale.
- F. Existing physical markers. Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary line is determined, varies from that as shown on the Zoning Map, the on-the-ground physical monument or marker shall control.
- G. In case of uncertainty as to the true location of a district boundary line in a particular instance, an interpretation may be taken to the Zoning Board of Appeals as provided in Article XIV.

§ 250-11. Table of general use regulations.

- A. Use requirements. No building or premises shall be erected, altered or used in any zoning district except in accordance with Table A, Schedule of General Use and Bulk Requirements.

The notations shown on the Schedule of General Use and Bulk Requirements shall have the following meaning:

P = Permitted Use	SP = Site Plan
SU = Special Use	Min = Minimum
Y = Yes	Max = Maximum
N = No	A = Accessory use

- B. Effect of use regulations. Where this Zoning chapter imposes a greater restriction on the use of a building or land or on the height of buildings or requires larger open spaces or imposes any higher standards than are imposed or required by any other statute, law, ordinance, rule or regulation, or by any easement, covenant, or agreement, the provisions of this Zoning chapter shall control. Where the requirements of this Zoning chapter differ from the requirements of another statute, law, ordinance, rule or regulation, the more restrictive shall govern.
- C. Accessory uses and structures. Accessory uses and structures shall be compatible with and clearly incidental and subordinate to the principal use of the lot on which same may be situated,

and an accessory use or structure shall not be established prior to the establishment of a principal use or building on the same lot except as allowed by subsection D below.

D. Accessory uses and structures on lot without a principal use.

- (1) Except as set forth below, no accessory use may be established on a vacant lot without a principal use having been first established, except as follows:
 - (a) That any use or structure accessory to a principal one-family detached residence in existence on the effective date of this Zoning chapter may be established on a separate lot, provided it is located on an adjoining property or across the street from the property and no more than 100 feet away from same.
 - (b) The property on which the accessory use or structure is located shall be and remain in the same ownership as the property to which it is accessory.
 - (c) The property shall be used for noncommercial purposes, and no outdoor storage shall be permitted except for the parking of operable motor vehicles licensed to the occupant of the one-family detached residence. No more than two motor vehicles may be parked on the property and no more than 500 square feet of the property may be paved with impervious surfaces.
 - (d) No accessory building or structure shall exceed one-story or fifteen (15) feet.
 - (e) No residence shall be established on the separate property except in compliance with all regulations set forth in this Zoning chapter. At such time, any accessory parking that may be removed shall be provided on the lot of the residence which it serves.
 - (f) Establishment of a use or building on a property accessory to a residence located on a separate property shall require Planning Board site plan approval.

§ 250-12. Schedule of bulk regulations.

- A. Purpose. In order to provide adequate space for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or premise shall be constructed, erected, altered, or used except in accordance with the standards set forth in this Zoning chapter.
- B. Bulk regulations. The regulations affecting the dimensional arrangement of buildings and structures on a lot, the density of residential and nonresidential uses and of materials and equipment occupying land in connection with non-building uses thereof for each of the districts established by this Article V are hereby established and set forth in Table A, entitled "Schedule of General Use and Bulk Requirements".
- C. Existing residential lots of record. For the purposes of this Zoning chapter:
 - (1) Two (2) or more contiguous noncomplying vacant parcels of land in common ownership on or after the effective date of this Zoning chapter shall be deemed to be merged to form one (1) or more lots complying so far as possible to the bulk requirements of the district in which the parcels are located. The lots shall be merged so as to reduce the degree of noncompliance, or to create lots that comply with the bulk requirements applicable to the zoning district within which it is located.

- (2) One or more vacant parcels of land that adjoin a noncomplying improved lot in common ownership on or after the effective date of this Zoning chapter and containing a building or structure shall be deemed to be merged with said improved lot to the extent necessary to bring the improved lot into compliance so far as possible. If any remaining vacant parcel(s) constitutes a complying lot, said parcel(s) shall remain a separate lot. Otherwise, the merged lots shall constitute one lot.
- (3) Merger shall occur whether such contiguous parcels were under common ownership at the date of adoption of this Zoning chapter or come under common ownership any time thereafter.
- (4) No lot so merged, or portion thereof, may be subdivided in any manner that will create or increase the degree of noncompliance.
- (5) Grandfathering of lots to be used for the construction of one-family detached residences. Any lot in existence prior to the effective date of this Zoning chapter which did not adjoin another lot in common ownership and does not presently adjoin a lot in common ownership, and whose lot area, lot width, lot depth are less than the minimum lot requirements for the district in which it is located, may be considered as complying with the minimum lot area requirements, and no variance shall be required, provided that:

(a) One-family detached residences shall only be permitted use in the zoning district in which the residence would be located.

(b) The lot shall meet the following standards for minimum lot area and minimum lot width:

Zoning District	Minimum Lot Area	Minimum Lot Width
R-60	40,000	100
R-9	7,500	75
R-6	5,000	50

(c) Any one-family detached residence constructed on a pre-existing undersized lot in compliance with the provisions of this section shall conform with all other yard, floor area ratio, impervious coverage and building height requirements of the district with a minimum lot area requirement in which the lot would conform in descending order from the largest to smallest lot area, provided however, that the side yard shall be no less than fifty percent (50%) of the required side yard for the district in which it is located, and in no instance shall the side yard be less than ten (10) feet, whichever is greater. Further, the height of the residence shall not exceed 2 times the smallest side yard setback of the lot on which it is located.

Example: A building has a proposed side yard setback of 10 feet and 15 feet. The building height shall not exceed two times the smallest side yard setback of 10 feet, which shall be 20 feet.

(d) These provisions shall not apply to any use other than the construction of a one-family detached residences.

(e) The residence can be served by water supply and wastewater facilities which meet health department standards for said facilities.

(f) The Planning Board shall approve a site plan for construction of the one-family detached

residence on the substandard lot and may impose minimum yard setbacks on the lot and may establish a maximum building height to ensure the residence conforms to the residential building pattern within the immediate adjoining neighborhood to ensure that the new construction does not have a significant adverse impact on community character.

D. Minimum lot depth. All lots in the Village of Hillburn shall have a minimum lot depth of 100 feet.

§250-13. TOD Overlay District - Rezoning Procedure

A. Purpose. The following procedures apply to zoning applications for the Transit Oriented Development Overlay zoning district set forth in §250-15. As used in this section, the term “overlay” refers to the provisions of the Transit Oriented Development Overlay.

B. Procedure.

(1) Pre-application meeting. The applicant shall request a pre-application meeting with the Village Board to discuss the applicant’s proposal. The purpose of this meeting is to solicit preliminary non-binding comments of the Village Board with regard to the consistency of any development proposal with the criteria set forth in §250-15, and to identify any issues that would need to be addressed during the development review process. A concept plan shall be submitted which shall include the information set forth herein. In addition to submission of a sketch plan, a narrative indicating how the proposal meets or will be designed to meet the minimum standards set forth for the applicable overlay district shall be submitted. The above information shall be received by the Village Board no less than thirty (30) days prior to the pre-application meeting at which the proposal shall be discussed. Subsequent to the meeting and issuance of the Village’s non-binding comments, the applicant may submit a formal application to the Village Board. The Village Board may invite the Planning Board to participate or to offer comments during the pre-application process.

(2) Submission of the overlay zone petition. The Zoning Map illustrates the area within which a Transit-Oriented Development may occur, subject to a rezoning of the land to the TOD zone. The rezoning shall convert the overlay zone to a base zone of the same name. The TOD zone may be applied but a zone petition is required to apply the TOD zoning standards to a specific property. The applicant shall petition the Village Board for TOD zoning in accordance with the procedures set forth in Article XV, Amendments, of this Zoning chapter. The zone petition shall be in a form sufficient to enable the Village Board to evaluate the applicant’s proposal and its consistency with the purpose, criteria, minimum standards and general design standards expressed herein. Copies of the zone petition shall also be submitted to the members of the Planning Board for review and comment. The overlay zone petition shall be accompanied by the following which shall represent the applicant’s Conceptual Plan submission:

(a) A written description of the purpose of the development and to what extent it meets the purposes, and criteria set forth in §250-15 for the overlay district.

(b) A metes and bounds description and survey of the proposed district certified by a licensed land surveyor.

(c) A concept plan showing a proposed layout with:

[1] Delineation of the proposed uses on the property;

[2] Any elements required for consideration as outlined within sections §250-15. The plan

shall include a delineation and calculation of the approximate acreage of any proposed open space areas and description of the activities, if any, proposed to occur within said areas, together with proposals for the ownership, maintenance and protection of the open space;

- [3] A description of ownership and illustration of the proposed access, whether public or private;
 - [4] A location map showing generally the land use and ownership of abutting lands within five hundred (500) feet of the property line;
 - [5] Description and preliminary mapping of the water and sewer system. The proposed capacity and maintenance of said system shall be specifically described;
 - [6] Identification of any environmental features located on the site. At a minimum, the features set forth in §250-17K shall be shown;
 - [7] The approximate location and dimensions of proposed principal and accessory buildings showing the relationship to one another and to other structures in the vicinity. A conceptual rendering of building massing and proposed bulk regulations to guide development of the development shall be submitted;
 - [8] Proposed safeguards to minimize possible detrimental effects of the proposed development on adjacent properties and the neighborhood in general, including proposed plans for landscaping, tree preservation and buffering to adjacent properties
 - [9] A preliminary stormwater management plan;
 - [10] Approximate location of lands, if any, proposed to be dedicated to the Village;
 - [11] Other information, plans and details as may be required by the Village Board to assess whether the proposed development will result in one or more of the public benefits set forth in §250-15.
- (d) A description and examples of the architectural and green building design features and programs to be incorporated into the development. The submission shall include building elevations and floor plans.
 - (e) A description as to how the common elements, e.g., open space and recreational resources, are to be owned, operated and maintained.
 - (f) If the project is to be phased, a proposed phasing plan indicating the approximate phasing of land dedication, site development and infrastructure improvements both on and off site, including the general order of construction and estimated timing of each phase. The phasing plan shall also identify the construction sequence and timing of all special community benefits and/or construction or improvement of public facilities, services and/or utilities. The Village Board, at its discretion, may require that the project be phased.
 - (g) Evidence acceptable to the Village Board to demonstrate the applicant's financial capacity

to carry out the project and a description of previous experience with projects of a similar scale and magnitude.

- (h) Such other documentation and information as may be required by the Village Board to evaluate the overlay zone petition and concept plan.
- (3) Planning Board report. Prior to the completion of SEQRA, i.e., issuance of a Negative Declaration or issuance of a Findings Statement, and prior to any action taken by the Village Board on the zone petition, the Planning Board shall issue a report with its comments related to its review of the zone petition, concept plan and SEQRA document that shall be considered by the Village Board prior to its decision making.
- (4) SEQRA review. The zone petition and concept plan shall not be deemed complete until such time as the Lead Agency issues a SEQRA Negative Declaration, or a Draft Environmental Impact Statement ("DEIS") is accepted by the Lead Agency as complete for purposes of commencing public review. For purposes of this Zoning chapter, any proposed development within the TOD overlay shall be designated a Type I action and requires submission of a full Environmental Assessment Form ("EAF"). Consistent with the regulations implementing SEQRA, coordinated review shall be conducted. The Lead Agency, based on the facts contained in the EAF, the zone petition and concept plan, shall determine whether the proposed action may have a significant effect on the environment, requiring issuance of a Positive Declaration and the preparation of a Draft Environmental Impact Statement ("DEIS"). The following information shall be provided by the applicant as part of the SEQRA review process, unless waived by the Village Board. The studies may be incorporated into a DEIS, if required:
- (a) A community services/fiscal impact study analyzing the demand that will be placed on community service providers and the costs associated with same. The study shall set forth specific methodology and assumptions upon which it is based. The Lead Agency shall review and consider the estimated community service costs, including municipal and school district capital and operating costs, and the tax revenues to be generated by the development to offset said costs.
 - (b) A traffic impact study indicating the ability, in terms of geometry and capacity, of the internal and adjacent roadway network to accommodate traffic generated by the proposed development. The traffic study shall identify mitigation measures, as necessary, to ensure adequate and safe traffic flow.
 - (c) A noise and air quality analysis demonstrating that the development will not have a significant adverse impact on ambient noise or air quality.
 - (d) Design calculations and preliminary plans illustrating on- and off-site improvements related to the design, construction and installation of a centralized system of wastewater treatment and water supply.
 - (e) A stormwater management plan, indicating methods to control stormwater runoff and methods to protect water quality of receiving water bodies.
 - (f) An ecological study demonstrating that the development will not have a significant adverse impact on sensitive and regulated species or significant habitat.

- (g) A cultural resource study documenting the potential impacts to historic and archaeological resources.
 - (h) A visual impact assessment demonstrating that the development is one which will be integrated into the landscape and will be minimally visible from scenic vantage points(i) Such other information and data that the Lead Agency determines necessary for adequate SEQRA review of the proposed action.
- (5) Rockland County Planning referral. The zone petition shall be referred to the Rockland County Planning Department in accordance with Section 239-m of the New York General Municipal Law.
- (6) Public hearing. The Village Board shall hold one or more public hearings to allow the public an opportunity to comment on the zone petition. The Village Board may, in its discretion, combine the zone petition public hearing with other required hearings, including any SEQRA hearing conducted by the Lead Agency.
- (7) Village Board zone petition decision. Approval by the Village Board of the zone petition is a legislative act. The Village Board by resolution and in its sole discretion, may elect to consider, may elect not to consider, or may reject the zone petition at any time during the zone petition review process. Failure of the Village Board to act on a zone petition shall be deemed a denial. In the event the Village Board elects to consider a zone petition, the Village Board, within 62 days after the close of the public hearing and after completion of the SEQRA process by the Lead Agency, including, if required, the issuance of SEQRA Findings, shall make its decision to approve, disapprove, or approve with conditions the overlay zoning. If the Village Board disapproves the overlay zone, it shall set forth its reasons for said determination in a written statement. However, the requirement of a written statement shall not be deemed to impair or affect the legislative nature of the Village Board's decision-making powers. The timeframe within which the Village Board may act may be extended upon mutual consent of the Village Board and the applicant. Failure to act within the time prescribed shall not result in default approval of the zone petition. If the Village Board approves the zoning, or approves the zoning with conditions, it shall, in its decision:
- (a) State that it has considered the criteria for decision-making and state its finding as to what extent the proposed project meets these criteria and to what extent the project, on balance, benefits the Village of Hillburn.
 - (b) Set forth or establish the maximum square footage buildout to be included in the zone.
 - (c) Determine all uses which shall be allowed in the zone.
 - (d) Establish the phasing plan as may be requested by the applicant or required by the Village Board.
 - (e) Prescribe such bulk regulations which will apply in the zone, including an identification of the provisions of the Zoning chapter that shall be superseded.
 - (f) Establish such other conditions and requirements which the applicant must adhere to in the development of the zone.
 - (g) All of the above shall be deemed to be, upon approval, or approval with conditions of the

zone petition, the " Final Concept Plan".

- (8) Development agreement. The Village Board and the applicant (developer) shall enter into a written agreement, the purpose of which shall be to establish in writing and for the benefit of the parties, the specific parameters of the approval which has been granted by the Village Board and upon which the applicant may rely in proceeding with its development project.
- (9) Filing of documentation. Upon approval of the zone petition, the Village Zoning Map shall be duly amended by the Village Board. The map amendment shall be filed, as required, as local law with the New York State Department of State, and a copy shall be filed in the Rockland County Clerk's Office. In addition, the Final Concept Plan shall be filed in the Office of the Village Clerk, together with the Zoning Map Amendment and Development Agreement. Where the regulations of the Zoning chapter vary with the standards set forth in the Final Concept Plan, the Final Concept Plan shall take precedence.
- (10) Planning Board approval. The zoning of the property as a TOD zoning district by the Village Board does not create any vested rights. The applicant shall be required to make a complete application for site plan and/or subdivision approval for some or all of the zone. Nothing herein shall limit the applicant's ability to make submission of a site plan or subdivision application prior to conversion of the overlay to a base zone. However, until the zone petition is approved, no subdivision plan or site plan application shall be deemed complete and said determination of completeness shall be made only by the Planning Board. The applicant shall pursue diligently preliminary subdivision plan and/or site plan approval. The zone shall entitle the applicant to construct the development in accordance with the Final Concept Plan, subject to Planning Board site plan and/or subdivision approval. However, any significant changes to building location, sizes, building type, or changes which the Village Board or Planning Board deems may have the potential to have a significant impact or represents a significant deviation from the concept plan upon which the zone has been approved shall be referred back to the Village Board for its review and consideration. The Village Board shall determine whether said changes require amendments to the Final Concept Plan. If a preliminary subdivision and/or site plan application for either a phase or for the overlay zone in its entirety is not submitted within one (1) year of the date the base zone is granted, the rezoning shall become null and void and the land shall revert to the underlying base zone prior to approval unless the applicant requests an extension from the Village Board. Prior to the expiration time period, the applicant may request from the Village Board up to two, one-year extensions of time for the submission of a plan and shall state in writing the reasons for said extension. The Village Board, in its discretion, may conduct a public hearing and may approve or deny the extension. In making its site plan and/or subdivision determination, the design standards set forth in this section together with all standards set forth in the Development Agreement, standards of the TOD zone, and Final Concept Plan approval shall be applied by the Planning Board.

§ 250-14. Village Center Overlay District regulations.

- A. Purpose. The Village Center Overlay (VC) is a mapped zone established within the traditional center of Hillburn where a mix of civic and multiple family residences already exist. The overlay zone aims to include small-scale deli, art studio uses, and allow continuance of the existing multifamily residences to reflect the Village's traditional charm and provide services to residences in the vicinity.
- B. Existing multiple family residences. Multiple family residences in existence on the effective date of this law are allowed as a permitted use within the Village Center Overlay district.

- C. A multiple family residence which does not meet the bulk requirements set forth above shall be deemed to be a conforming use with noncomplying bulk. Said use may continue but in no case shall the number of dwellings in the building be increased above that number of dwellings in existence on the effective date of this Zoning chapter as based on the tax assessment and building data.

§ 250-15. Transit-Oriented Development Overlay District regulations.

- A. Purpose. The Transit-Oriented Development (“TOD”) Overlay District is established only upon an applicant’s submission of a zone petition and approval of the petition by the Hillburn Village Board. Approval of a zone petition and TOD Concept Plan by the Hillburn Village Board allows an applicant to apply for site plan approval of a TOD in compliance with the standards set forth in this section of the Zoning chapter and the Final Concept Plan approved by the Village Board. The purpose of the district is to:
 - (1) Create a greater sense of place and of community identity at this gateway location;
 - (2) Provide mobility options within the Village, such as the transit around which the community has evolved;
 - (3) Provide a regional transit facility that benefits from its proximity to the existing railroad right-of-way and state routes within and adjacent to the areas eligible for the overlay district;
 - (4) Provide a more efficient use of land consistent with the Village of Hillburn Comprehensive Plan;
 - (5) Provide a variety of housing types which addresses the diverse needs that characterize Hillburn, and which promote age- and income-integrated housing. Easy access to transit allows all residents, including older adults and people with disabilities, to rely less on automobile travel while still remaining independent and mobile;
 - (6) Allow a residential density that creates vibrant communities and increases the value of properties around the TOD; and
 - (7) Allow for the reuse of brownfield sites within the Village located along existing transit lines to accomplish housing diversity.
- B. Criteria for approval of a TOD base zone. In determining whether to approve a TOD, the Village Board shall consider the following criteria and determine to what extent the proposed TOD meets these criteria and whether the proposed development, on balance, benefits the Village of Hillburn:
 - (1) Demonstrate that the TOD will introduce retail and other uses as part of a mixed use development that provides employment opportunities for area residents and enhances the Village’s tax ratable base;
 - (2) Results in the conversion of brownfield sites into attractive gateway mixed use developments;
 - (3) Uses high quality building materials and introduces aesthetically attractive buildings that will enhance the Village’s visual environment;

- (4) Incorporates mass transit facilities into the design of the structure;
 - (5) Will be physically linked to Hillburn's historic neighborhoods by revitalization of the pedestrian corridors in the project vicinity;
 - (6) Promotes energy-saving and sustainable building techniques, like those promulgated by the U.S. Green Building Council;
 - (7) Can be served adequately by the Village and other community facilities and services that serve the Village, including ambulance, fire, police, highway, and other services, and will not place undue demand on same, and provides for the construction or improvement of public facilities, services or utilities.
 - (8) Can be accommodated in a manner wherein the traffic generated by the use will not negatively impact any roads within the Village of Hillburn or regional road network;
 - (9) Provides special community benefits such as open space protection, public access to park land, hiking trails, biking trails and recreational resources.
- C. Minimum TOD Zoning District Standards. The following minimum standards must be met in order to submit a TOD zone petition to the Village Board:
- (1) Location of TOD. The proposed TOD may be developed on properties only located in the TOD overlay district.
 - (2) Minimum Size. The minimum size of the tract, or combination of tracts, encompassing the TOD shall be 5 gross acres and in single ownership. Said tract(s) shall be contiguous, except that utility and transportation rights-of-way shall be permitted to cross the tract, and still render the tract contiguous. No part of the required acres may be composed of land or property already restricted from development by a conservation easement, deed restriction, or other restriction limiting development, except that environmental covenants established in association with the NYS Brownfield Cleanup program or similar federal program shall not apply where said covenant allows the use of the property for the intended purposes of a TOD.
 - (3) Utilities. The proposed use shall be served by central water and sewer service.
 - (4) Uses. A TOD may allow the following nonresidential uses: retail, restaurant, offices, and personal service uses. The uses allowed in the TOD shall be authorized by the Village Board, which in its discretion, may reject any use it determines does not meet the intent of the zone. Multiple family residences shall be a permitted use subject to the design requirements set forth herein. Transit uses including bus garage, vehicle transit garage, train station, and similar transit uses shall be a required use which shall be integrated into the design of the TOD.
 - (5) Accessory uses. Accessory uses shall include parking, loading, common recreation space for residential occupants, and other uses that the Village Board, in its discretion, deems is clearly incidental and accessory to the TOD.

D. Design standards.

- (1) The TOD shall incorporate no less than 35 percent and no more than 50 percent of the total gross floor area of the building facility for the construction of a transit facility which may include a train station, bus station, bus parking train parking, or bus/train intermodal facility.
- (2) No less than 15 percent of the total gross floor area of the building facility shall consist of permitted nonresidential uses including retail, personal service, offices, and restaurants. The retail use may be increased up to 30 percent of the total gross floor area of the facility. All commercial uses shall front to the public street and shall serve as liner spaces around the transit building to screen views of any garages or other transit areas.
- (3) No less than 35 percent of the total floor area of the facility shall consist of multiple family residences. Of the total number of units, 40 percent shall consist of one-bedroom dwellings, 40 percent shall consist of two-bedroom dwellings, and 20 percent shall consist of three-bedroom dwellings.
- (4) No less than 20 percent of all dwelling units shall be made affordable to households earning no more than 80 percent of the Village's median household income measured in the year immediately preceding the anticipated occupancy of the dwelling units. The affordable dwelling units shall consist of 50 percent one-bedroom dwellings, and 50 percent two-bedroom dwellings. There shall be no difference in the design, features, and amenities provided in a market rate versus affordable dwelling unit. The affordable dwelling units shall remain affordable for the life of the TOD. The affordable housing units shall first be made available to Hillburn residents, volunteers of the Village's service providers, senior citizens and relatives of Hillburn residents on a continual basis.
- (5) The TOD shall incorporate a recreation area for use by the residents or shall provide a fee in lieu of recreational land.
- (6) Sidewalks shall be improved and connected to existing sidewalks providing access to the Village of Hillburn, including over the 4th Street Bridge and into the Village of Suffern.
- (7) The frontage of the property shall be landscaped with street trees and other planting materials along the length of Route 59 and adjacent to the 4th Street bridge.
- (8) The maximum height of the building(s) shall be 6 stories or 65 feet. The building shall be designed to have a stepped setback across from Blakeslee and Park Place in order to provide adequate light and air space between the neighborhood and the TOD. The lower 2 stories shall be dedicated to the transit facility and no more than two stories shall be dedicated to said transit facility.
- (9) Parking and loading requirements. The minimum off-street parking and loading requirements for any uses or structures in the TOD zone shall be established as part of the Final Concept Plan, taking into consideration the requirements of Article VIII of this Zoning chapter.
- (10) Yard requirements. Frontage and yard requirements within a TOD zone shall be established as part of the Concept Plan, and will be dictated by health, fire, safety, function and buffer considerations. With the design guidelines, the applicant shall be required to submit proposed bulk requirements that would apply to the TOD which shall be subject to Village Board approval.

(11) Roads and driveways. The arrangement, character, extent, width, grade and location of all driveways shall be considered in relation to existing streets, topography and public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by said driveways.

(12) Municipal civic areas and uses. The creation of a development in the TOD zone, due to its size, may place significant demand on various municipal service providers. These providers include but are not limited to: fire district, library, Village governmental services, and emergency service providers and equipment. The Village Board may require that the development incorporate into its design locations for municipal service providers where the Village Board finds that the project would have a significant adverse impact in the absence of providing said location and that such locations would mitigate such impacts. Alternatively, the applicant may mitigate community service impacts through funding the construction and expansion of existing facilities off-site to handle the additional demand.

(13) "Green building" techniques. As a requirement of the TOD zone, it shall be the goal that no less than 50 percent of all space within the TOD be designed in accordance with "green building" techniques or standards such as those promulgated by the U.S. Green Building Council, i.e., Leadership in Energy and Environmental Design ("LEED") standards, or comparable standard. The applicant shall endeavor to follow these principles, and any techniques shall be set forth and incorporated into the design standards for the TOD zone.

(14) Signage and lighting. The TOD zone shall incorporate decorative sign and lighting design standards which shall regulate said improvements within the TOD zone. The Village Board shall give due consideration to the goals, objectives and design standards set forth in the Village of Hillburn Comprehensive Plan in its review and approval of said standards. Lighting shall be dark sky compliant.

E. Professional fees. The applicant for a TOD zone shall be required to reimburse the Village for all professional fees incurred by the Village in its review of the zone petition application and in its SEQRA Review of the application. As a condition of the commencement of the review of any TOD Petition, the Village Board shall require the applicant to enter into an escrow agreement for reimbursement of professional fees. Refer also to Chapter 120, Fees, of the Village of Hillburn Code.

§ 250-16. Ridgeline Protection Overlay (RPO) District.

A. Purpose. Consistent with the Village of Hillburn Comprehensive Plan, the Village of Hillburn seeks to protect its environment, community character and scenic beauty. The Village's prominent ridgelines are within the viewshed of regional trails and park system. The Village has determined that prominent ridgelines are an integral contributing element to the Village's landscape. The purpose of this section is to minimize the visual and environmental impacts of development located on or within 200 feet of a ridgeline by regulating the placement of buildings and structures and limiting the overall disturbance that occurs within the ridgeline protection overlay district. It is not the intent of this section to regulate or limit development on small hills or rises on parcels within the Village that are not prominent in the visual landscape and are not identified on the zoning map.

B. Applicability. The Ridgeline Protection Overlay District shall apply to all lands within 200 feet of a ridgeline as shown on the zoning map.

C. Regulated Activities.

- (1) No approval shall be granted and no building permit shall be issued for any activities regulated herein without Planning Board review and approval as per the requirements of this section. The following activities situated within the RPO district are subject to review and approval by the Planning Board:
 - (a) Any activity requiring site plan or subdivision approval from the Planning Board.
 - (b) Any activity requiring special use permit approval from the Planning Board.
 - (c) Any construction or use requiring the issuance of a building permit, and where the proposed construction would disturb over 1,000 square feet of gross lot area or would exceed twenty (20) feet in height as measured from existing ground level within the RPO district.
- (2) Activities that require a building permit on that portion of a property occurring wholly outside of the RPO District shall not be subject to the following regulations.
- (3) Telecommunication towers shall not be permitted within the RPO overlay district.

D. Procedure.

- (1) Code Enforcement Officer review. The Code Enforcement Officer shall review a building permit application and determine if the activity is located within the RPO district. If the proposed activity is within the RPO district and it is a regulated activity, the building permit application shall be referred to the Planning Board. No building permit shall be issued for any regulated activity unless the Planning Board has issued approval of the activity.
 - (2) Design review. The Planning Board shall review the application to determine if it complies with the design standards set forth herein.
 - (3) Decision making. The Planning Board may approve, approve with modifications, or disapprove the proposed activity. In the event that even with the imposition of conditions, the resource protection objectives of this section cannot be satisfied, the Planning Board shall deny an application for activities regulated therein.
 - (4) SEQRA. The Planning Board, in its decision making, shall comply with the regulations implementing SEQRA.
 - (5) Timeframe for decision making. Where the Planning Board is reviewing a site plan or special use permit application, the timeframe within which to make a decision on an application proposed within the RPO district shall be reviewed concurrently and decided upon with the site plan and special use permit. For any action that does not otherwise require a site plan or special use permit, the Planning Board shall render a decision within 62 days of receiving a complete application, or the close of the public hearing, whichever occurs later. The Planning Board, in its discretion, may hold a public hearing on the application.
 - (6) The decision of the Planning Board shall be filed with the Code Enforcement Officer and Village Clerk.
- E. Submission requirements. The Planning Board shall determine the level and detail of information that shall accompany the site plan, special use or building permit application(s). The information

to be submitted shall depend on the nature of the proposed activity, e.g., its scale, height and mass, and the potential for same to be visible from public observation points. Unless waived by the Planning Board, the data to be submitted shall include:

- (1) Any material submitted to the Code Enforcement Officer in conjunction with a building permit, site plan or special use permit application. Said application shall also include an architectural rendering of the proposed structure, indicating the size and shape of the house, its siding color and material, window locations, size and type and roofing color.
- (2) Swatches, paint chips, and other samples indicating the materials and colors proposed in the construction of the activity. The applicant shall specify the methods and mechanisms of minimizing visual impacts of existing and proposed structures, roads, driveways and other man-made features.
- (3) A plan showing the location of existing and proposed roads, structures, driveways, or other man-made feature. The plan shall indicate the maximum first-floor topographic elevation and the maximum elevation to the highest point of each building and structure. Grading and the limits of disturbance shall be shown.
- (4) Visual Assessment Form, indicating the public observation points from which the proposed activity may be visible.
- (5) Additional submittals. The Planning Board, in its discretion, may also require submission of the following information:
 - (a) Soil stability analysis. A soil stability analysis shall be submitted to the approving agency to demonstrate that the construction will not compromise the stability of the terrain (including any man-made structure on site) and certified to that effect by a New York State licensed geotechnical engineer. The Planning Board may waive this requirement if the Village Engineer advises the Planning Board that it is unnecessary owing to the particular conditions of the site and the nature of the requested approval.
 - (b) Visual impact analysis. A visual impact analysis shall be submitted to the extent and level of detail commensurate with the circumstances of the requested approval, if the Planning Board makes a finding that any structures may have a significant visual impact on the environment. Such visual impact analysis may be required to include a verifiable digital photomontage combining an existing conditions photograph with a three-dimensional computer-aided design ("CAD") model of proposed conditions using match points that are in common in both the three-dimensional model and the photograph to create a verifiable visual simulation of the proposal, during leaf-off - no snow conditions, from distances and vantage points as determined appropriate by the Planning Board. A balloon test may be required to determine whether any proposed structure would be visible from a public road.
 - (c) Tree survey. A tree survey shall be submitted showing on the site plan the location, type, and diameter of every tree of eight (8) or more inches diameter at breast height (dbh) that is being proposed to be eliminated. The Planning Board may require a photographic record of the vegetative coverage taken from vantage points determined by it to be appropriate given the particular circumstances of the requested approval. In addition, the Planning Board may require an inventory of shrubs and plants for purposes of identifying species typically found on the property and determining appropriate compensatory

coverage.

(d) In consultation with the Planning Board, the applicant shall provide a list of observation points from which the structure may be visible. The applicant shall provide photographs taken from the observation point of the development site with aerials markers (e.g., balloons) if required by the Planning Board.

(e) Any additional information as may be requested by the Planning Board to render its decision.

F. Design Standards.

(1) Location outside RPO district. The Planning Board, in its discretion, may require that activities and structures be located on those portions of a lot outside the ridgeline protection overlay area. The Planning Board, in reviewing a subdivision plan, shall ensure that proposed lots be platted, and buildings be situated on the landscape so that proposed disturbance areas and building locations are located outside the RPO district to the greatest extent practicable.

(2) The installation of all structures and associated driveways, gardens, terraces, walls, ponds, patios, and utilities shall minimize to the greatest extent practicable all blasting, chipping, cutting, filling, and mechanical recontouring of the natural terrain, and shall take advantage of the screening potential of existing vegetation and land features to screen any activity regulated herein. All land disturbance activities, including but not limited to clearing, grading, excavation, building construction, construction of driveways and roads, cutting, and filling, shall be limited to the minimum land area necessary to accommodate the proposed use or activity, and shall in no case be greater than 5,000 square feet plus land necessary for driveway access.

(3) If such structures cannot be completely obscured, they shall be made to blend as unobtrusively as possible into the hillside to avoid breaking the natural ridgeline. Structures shall be designed to step with or follow the natural terrain to minimize regrading. Landscaping may be required by the Planning Board as mitigation for negative impacts on the public viewsheds and to minimize the visibility of the proposed improvements.

(4) Natural and historic features that provide scenic importance to the mapped areas of the RPO district areas shall be preserved and remain undisturbed to the greatest extent practicable. These features shall include, but are not limited to, historic buildings and structures, stone walls, steps and paths, boulders, natural rock outcroppings, and streams.

(5) Location below the ridgeline. All structures shall be sited so that the roof or the top of the building or any structure is located below the ridgeline unless the structure is fully screened by existing vegetation and appropriate restrictions are placed on the lot to ensure that said vegetation is not removed. In no instance shall a structure pierce the skyline as seen from any public road. Vegetation shall be retained or planted to ensure this requirement is met. The Planning Board may impose conditions or otherwise limit the maximum height of any structure to achieve the objectives of this section.

(6) Proposed building materials (including but not limited to retaining walls and windows) shall be used with dark earth-toned and nonreflective building materials to ensure that the structure blends with the surrounding landscape. Structures shall blend in with natural surroundings through preferred use of stone or natural wood siding and use of roofing

materials with dark earthtone colors.

- (7) Native vegetation to be preserved. Removal of native vegetation including shrubs and trees shall be minimized to the maximum extent practicable. The Planning Board may impose conditions or otherwise limit the amount of disturbance permitted. The Planning Board may also require landscaping with native non-invasive species to offset potential visual or environmental impacts associated with the proposed disturbance. Clear-cutting of trees in a single contiguous area shall be prohibited, unless expressly permitted by the Planning Board.
 - (8) Clearcutting prohibited. Clear cutting on the ridgeline shall be prohibited. Further, topping of trees with or without stump removal is prohibited. The continuity of the tree line when viewed from a public observation point shall not be disturbed.
 - (9) Lighting shall be minimized. Dark sky compliant lighting fixtures shall be used or lighting levels shall otherwise be limited to the minimum level necessary to protect the health, safety and welfare of residents.
 - (10) Colors. The Planning Board may require that a structure be limited to specified dark earthtone colors to limit visibility of the structure.
 - (11) Building envelopes. To ensure that the placement of structures and other improvements comply with these standards, the Planning Board shall limit permitted development to specified building envelopes showing acceptable building sites and areas of permitted clearing of vegetation and grading of land. Such building envelopes shall:
 - (a) Be clearly designated on the approved subdivision plat and/or site plan.
 - (b) Be the minimum size necessary to accommodate the approved development and protect the remainder of a site from significant alterations.
 - (12) Any subdivision showing a potential structure within the RPO district shall have a note referencing this section of the Zoning chapter or a note indicating detailed plans and restrictions for specific structures for specific lots that have been approved during the subdivision process along with the restrictions imposed.
- G. Conditions. The Planning Board shall attach conditions to its approval as it deems necessary to achieve the purposes of the RPO district. Such conditions may include the following:
- (1) Limiting building to a specified "building envelope" area.
 - (2) Requiring a conservation easement on land outside a building envelope.
 - (3) Requiring landscaping to buffer and screen proposed structures.
 - (4) Reducing the height, footprint, or floor area of a proposed structure.
 - (5) Modifying the architecture, building materials, or other design features of a structure so that it will blend into the landscape.
 - (6) Limiting alteration of landforms through grading, cutting, or filling.

- (7) Changing the location and siting of structures, including the alignment of roads and driveways and the placement of any other improvements on the property.
 - (8) Restricting clearing of trees and reduction of tree cover.
 - (9) Other conditions deemed necessary to achieve the objectives of this section.
- H. Waivers. The Planning Board may waive the standards set forth herein where it determines that preservation of the visual environment can still be achieved by granting the waiver.

Article VI Supplementary Regulations

§ 250-17. Supplementary regulations applicable to all districts.

- A. Minimum road frontage. Despite any provision contained in this Zoning chapter to the contrary, no building permit shall be issued for the construction or the erection of any building or structure on a parcel of property unless that parcel has road frontage on a public street consisting of at least 75% of the minimum required lot width. Nothing herein shall be construed to allow a flag lot, which lots are prohibited.
- B. General area and bulk requirements; accessory uses and structures.
- (1) Encroachments in required yards.
- (a) Projections.
- [1] Ordinary projections of window sills, belt courses, cornices, eaves and other similar architectural features shall be permitted to encroach no more than three (3) feet.
- [2] An arbor, open trellis, or flagpole shall be permitted to encroach into any yard. Clothes-drying equipment shall be permitted to encroach within a rear yard.
- [3] An awning or movable canopy shall be permitted to project not more than four (4) feet into any required yard.
- (b) Location of accessory buildings.
- [1] No accessory building in any district shall be located in any required front or side yard, except in conformity with the district requirements.
- [2] An accessory building shall be permitted in a required rear yard, subject to the following:
- [a] The aggregate ground area covered by accessory buildings in any rear yard, including the ground area covered by any attached accessory buildings such as a deck, shall not exceed 25% of the rear yard in any residence district or 50% of the rear yard in any business or industrial district.
- [b] No accessory building shall be closer than provided by the requirements of each district to any principal building unless it is attached thereto and is a part of such principal building.
- (2) Fire escapes. No exposed fire escapes shall be permitted on any side of a building fronting to a street.
- (3) Storage in yards.
- (a) Temporary storage containers and dumpsters. Containers, including but not limited to moving, shipping, portable and storage containers, trailers, dumpsters, and similar structures, are not permitted on any property in the Village of Hillburn for more than seven (7) successive days except in accordance with the following standards:

- [1] Containers are allowed only upon issuance of a temporary permit from the Code Enforcement Officer for a time period not to exceed six months. The Code Enforcement Officer may extend the permit for up to two additional time periods of no more than three months each where the owner demonstrates a continuing need for temporary storage, e.g., home construction and repair or similar circumstance.
 - [2] Containers shall be used only for the temporary storage of goods in the ownership or used by the occupants of the lot upon which the container is located.
 - [3] The Code Enforcement Officer shall prohibit any type of storage which the Code Enforcement Officer deems is hazardous or flammable. The general contents of the storage container shall be described in the temporary permit application.
 - [4] The container shall not be stored in any required yard unless the Code Enforcement Officer determines there is no other reasonable location in which to store said container.
- (4) Dumpsters and trash containers. All properties within the Village of Hillburn shall be kept free of litter and debris and shall maintain trash receptacles and containers on site. Trash receptacles and dumpsters shall remain closed at all times and be designed so as to prevent the release of refuse or other materials stored therein. Except for a temporary dumpster which may be allowed in accordance with this zoning chapter, and refuse containers associated with a one-family or two-family residence, all permanent dumpsters and refuse areas associated with any other use shall be screened from view with a six-foot-high opaque fence, or year-round vegetative screening no less than six feet high at the time of planting. After the effective date of this Zoning chapter, a permanent dumpster or trash container with a capacity of three cubic yards and greater shall be installed only in a location on a site with a principal use which has received site plan or special use permit approval. No dumpster or similar container shall be located within 25 feet of an adjoining residential lot line or residential building.
- C. Height exceptions. The height limitations of this chapter shall not apply to the following structures:
- (1) Church spires, belfries, cupolas, domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level, a parapet wall or cornice for ornament, extending above such height limit not more than (4) four feet, or radio or television receiving antenna serving residences.
 - (2) In nonresidential zoning districts only, radio or television receiving towers or dishes.
- D. Buffer area requirements for district boundaries.
- (1) Except as provided in subsection (2) below, where a lot in the Local Shopping nonresidential zoning district abuts a lot in a residential zoning district, there shall be provided along such abutting line on the nonresidential district lot, a buffer at least equal in width to that required in the abutting residential district, but in no instance less than fifty (50) feet, which shall be in addition to any required yard. The buffer area shall remain undisturbed and shall be not be used for storage of any material or goods, parking area, road, driveway, or other

improvements, and the Planning Board, in its discretion, may require that the buffer area be suitably landscaped with year-round plantings no less than six (6) feet in planting height. The Planning Board may also require a solid fence no less than six (6) feet in height. The Planning Board shall establish the location of the landscape materials and fence within the buffer, and the buffer shall extend the full length of the shared property line of the two lots. The Planning Board may modify the requirement that the fence or hedge be extended the length of the common lot line to ensure adequate sight distance is maintained.

(2) Where a lot in the General Commercial, Regional Economic Development or Light Industry district abuts a lot in a residential district, there shall be provided along such abutting line on the nonresidential district lot, a buffer at least equal in width to that required in the abutting residential district, but in no instance less than seventy-five (75) feet which shall be in addition to any required yard. The buffer area shall remain undisturbed and shall be not be used for storage of any material or goods, parking area, road, driveway, or other improvements, and the Planning Board, in its discretion, may require that the buffer area be suitably landscaped with year-round plantings no less than six (6) feet in planting height. The Planning Board may also require a solid fence no less than six (6) feet in height. The Planning Board shall establish the location of the landscape materials and fence within the buffer, and the buffer shall extend the full length of the shared property line of the two lots. The Planning Board may modify the requirement that the fence or hedge be extended the length of the common lot line to ensure adequate sight distance is maintained.

E. Land disturbance activities, excavations, soil mining, quarrying. Excavations, soil mining, soil processing, quarrying, blasting and similar activities as a principal use are prohibited. Land disturbance activities, excavations, soil mining, and/or quarrying is hereby prohibited except in association with land development activities associated with a use otherwise allowed as a permitted use or special use in the district within which it is located. Further, any land disturbance activity adversely affecting natural drainage or structural safety of adjoining buildings or lands is hereby prohibited. All land disturbance activity regulated herein shall be in accordance with Subsection **E(1)** below. The Planning Board shall require from any applicant, prior to the issuance of a permit for any activity approved under this section, a performance bond, cash escrow or other arrangement acceptable to the Planning Board, upon the advice of the Village Attorney and Village Engineer, to ensure that emergency measures could be taken by the Village at the applicant's expense should the applicant fail within the time specified to initiate appropriate conservation action which may be required. Within 180 days of the completion of the land disturbance activity, such bond, cash escrow or other legal arrangement, or the unexpended portion thereof, shall be refunded to the applicant or terminated, as appropriate.

(1) Land Disturbance Activity for construction of buildings.

(a) Land Disturbance Activity in connection with the construction on the same lot of a building for which site plan or subdivision approval has been granted showing limits of disturbance, and a building permit has been issued, shall be permitted in any district.

(b) No Land Disturbance Activity shall exceed the limit of disturbance shown on an approved site plan or subdivision plan.

(c) In the event that building construction is not completed and the building permit thereof expires, the premises shall be cleared of any rubbish, building materials, or other unsightly accumulations, and any excavation for a building, basement, foundation, utility or otherwise of a depth greater than two feet below grade shall be filled and the topsoil

replaced, or all such excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area. Where necessary, suitable gates will be installed and provided with locks. Such clearing, filling and/or fencing shall be completed not later than the expiration date of the building permit.

- (2) Conservation of natural resources. The purpose of this regulation is to conserve the land, water and other natural resources of the Village and promote the public health and welfare of the people by establishing requirements for the control of erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced.
- (3) Administration. The Planning Board is hereby authorized to issue land-disturbance permits for activities permitted under this section. Land-disturbance permits may only be issued in relation to work to be performed pursuant to an approved subdivision plat, special use permit, or site plan and for a use allowed by right or by special use permit in the district in which the activity is located.
- (4) Erosion and sediment control plans. The plans required by this section shall comply to all applicable erosion, sediment control and flood control regulations adopted by the Village of Hillburn, Village of Ramapo, the County of Rockland, and New York State. The more restrictive requirements shall prevail.
- (5) Regulated land-disturbance activities.
 - (a) No person shall engage in any land disturbance activity, as defined in Section 255-7 of this Zoning chapter, until an erosion and sediment control plan for such land-disturbance activity has been reviewed and approved by the Planning Board and the Planning Board has approved a land disturbance permit.
 - (b) Whenever a land disturbance activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.
 - (c) No approval for a land disturbance permit may be issued until the regulations implementing the New York State Environmental Quality Review Act have been complied with.
- (6) Action on erosion and sediment control plans.
 - (a) The Planning Board shall approve any erosion and sediment control plan submitted to it only if it determines that the plan meets the conservation standards of the control programs and if the person responsible for carrying out the plan certifies that he will properly perform the measures included in the plan and will comply with the provisions of this chapter. The time frame for approval shall be the same time frame as site plan approval or subdivision approval.
 - (b) The approved plan may be changed in the following cases:
 - [1] When inspection by the Village has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan, and appropriate modifications to correct the deficiencies are agreed to by the owner/applicant and

the Village.

- [2] Where the person responsible for carrying out the approved plan finds that, because of a change in circumstances, the approved plan cannot be carried out effectively and the proposed amendments to the plan are agreed to by the owner/applicant and the Village.

(7) Issuance of land disturbance permit.

- (a) Except as provided herein, no person shall engage in any land disturbance activity until a land disturbance permit has been issued by the Planning Board. Initial applications are to be filed with the Code Enforcement Officer.
- (b) The Planning Board shall not issue any land disturbance permit unless the applicant therefor submits with its application a filing fee in an amount to be determined by the Village Board, an engineering proposal in accordance with this section, and an erosion and sediment control plan and certification that such plan will be followed.

- [1] Maps. The applicant shall submit five copies of a map at a scale of one inch equals no more than 50 feet, showing all lands proposed for excavation and all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at two-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.

- [2] The applicant shall also submit to the Planning Board five (5) copies of the proposed plan of excavation at the same scale as above showing the proposed finished elevations at two-foot contour intervals and the proposed drainage plan.

- [3] The proposed finished grading plan shall show the land to be smooth-graded, the topsoil re-spread to a minimum depth of four inches and slopes no greater than thirty percent (30%).

(8) Monitoring, reports and inspections.

- (a) The Village shall periodically inspect the land disturbance activities to ensure compliance with the approved plan and to determine that the measures required in that plan are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.
- (b) If the Village determines that the permit holder has failed to comply with the plan, the Code Enforcement Officer shall immediately serve upon the permit holder, by registered or certified mail, or by personal service or by posting on the property in a conspicuous place, a notice to comply. Such notice shall set forth specifically the measures needed to comply and shall specify the time within which such measures shall be completed. If the permit holder fails to comply within the time specified, he may be subject to the revocation of his permit; furthermore, he shall be deemed to be in violation of this chapter and, upon conviction, shall be subject to the revocation of his permit. The remedies as set forth above shall not be the exclusive remedy for a violation of this section, and the Village reserves the right to avail itself of any legal method of terminating activity violative of this

provision.

(9) A land disturbance permit shall be valid for one (1) year from the date of approval but may be extended at the discretion and approval of the Planning Board for one additional period not to exceed one year.

(10) Penalty. Any person, firm or corporation violating any provisions of this subsection shall be subject to any fines set forth in Section 250-46 of this Zoning Chapter.

F. Tree preservation. The trees and forested lands in the Village of Hillburn are important natural resources that benefit the Village and make it a desirable place for both residents and visitors. Trees help to naturally control flooding, filter pollutants and prevent soil erosion, protect watersheds including the Ramapo Sole Source Aquifer, enhance air quality, provide a natural noise barrier, provide habitat for wildlife, and yield advantageous micro-climates thereby reducing energy consumption. The removal of trees can cause deprivation of these benefits and change the ecological and woodland character of the Village. Properly located and planted trees are an effective means of providing sight and noise barriers. Replacing trees removed during construction is necessary to assist in soil conservation and establishing and maintaining suitable and acceptable drainage, since development usually creates new drainage patterns, and the growth of trees and their roots are integral to these new drainage patterns and their stability.

(1) For purposes of this section, a "regulated tree" is hereby defined as a tree with a diameter of eight (8) inches or more measured at least four (4) feet above ground level or trees planted by the Village of Hillburn pursuant to the Shade Tree Regulations or planted pursuant to subdivision or other applicable regulations or ordinances or local laws. The moving, removal, poisoning, lopping, or otherwise irreversible and intentional damage of a regulated tree on any property shall be allowed only by issuance of a tree removal permit approved by the Planning Board, and subject to the provisions set forth herein.

(2) Nothing herein shall be construed to permit clearcutting or timber harvesting as a principal use within the Village of Hillburn. Said uses are prohibited.

(3) Before a tree removal permit is issued, the applicant shall submit five (5) copies of a tree plan to the Planning Board at a scale of one inch equals no more than 50 feet or such scale approved by the Planning Board, showing the following:

(a) The tree plan shall be included in the proposed development plans and shall include maps prepared with sufficient detail to illustrate the location and general characteristics of the existing vegetation before requested development and of re-vegetated areas after completion of the development as follows:

[1] Detail the location of tree stands, rock outcroppings, stone walls, streams, lakes, ponds, wetlands and other water bodies, all regulated trees as defined herein, and all other natural features throughout the entire parcel(s) to be developed. Such map shall provide the existing topography at two-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.

[2] Delineate an "envelope" on each parcel(s) or portion of property anticipated to be disturbed, outside of which will be considered an area of non-disturbance by development and construction activities.

- [3] Detail, within the proposed area of disturbance, regulated trees as to general genus (i.e., Oak, Pine, etc.) and identify the number and species of individual trees having eight (8) inches caliper at DBH.
- (b) All trees that are identified and described above that are proposed to be removed shall be clearly detailed on such map.
 - (c) The tree plan shall demonstrate how required buffers, open space and trees to be saved will be protected during construction, whether with safety fencing or other approved alternative, the sequence of which is approved by the Planning Board
 - (d) The tree plan shall designate buffer zones of at least fifteen feet (15') along all perimeters of any regulated tree to be protected, as well as critical root zones around existing trees, where trees will not be removed or disturbed except as permitted herein.
 - (e) All lands proposed for removal of regulated trees and all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners.
 - (f) The proposed finished elevations at two-foot contour intervals and the proposed drainage plan. The proposed finished grading plan shall show the land to be smooth-graded, the topsoil re-spread to a minimum depth of four inches and slopes no greater than 30°.
- (4) No approval shall be granted until the regulations implementing the New York State Environmental Quality Review Act have been complied with.
 - (5) The Planning Board shall decide on the application within 62 days of receipt of a complete tree removal permit. The Planning Board may, as a condition of approval, require the replanting of trees of a specimen and size determined to be suitable to the property as mitigation.
 - (6) The applicant shall be required to furnish a performance bond, cash escrow or other such arrangement as may be acceptable to the Planning Board, upon the advice of the Village Attorney and Village Engineer, to be sufficient to guarantee completion of the plan. Such security shall be released only upon certification by the Village Engineer that all requirements of this subsection have been complied with.
 - (7) A tree removal permit issued for the removal of a regulated tree shall not exceed a period of one year from the date of approval, but such permit may be extended for an additional one (1) year upon approval of the Planning Board.
 - (8) One (1) copy of the approved plan shall be returned to the applicant by the Village Clerk together with the tree removal permit upon the payment of a fee to be established by the Board of Trustees.
 - (9) The following properties and uses shall be exempt from the provisions of this section:
 - (a) Removal of a regulated tree incidental to highway or public utility construction or maintenance conducted by a state, county or local agency or a public utility company.
 - (b) Issuance of a building permit, provided that the regulated tree is located within the area

of disturbance within which the improvement is to be located. The applicant shall have obtained site plan approval or a land disturbance permit, as applicable.

- (c) Removal of a regulated tree from a parcel of property performed by the Village of Hillburn or a property owner where the Village has determined the tree is dead or poses imminent danger to the health, safety and welfare of any residence or street in the Village. A record of proof of such removal shall be on file at Village Hall.
- (d) Removal of a regulated tree by a developer pursuant to site or subdivision approval of the Planning Board or other approval issued by applicable section of the Village of Hillburn Code, provided said tree removal has been shown on said plans.

G. Performance standards and prohibited uses.

(1) Notwithstanding any other provision of this Zoning chapter, uses with the following characteristics are prohibited in all districts:

- (a) Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution; or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form, in any manner or amount, so as to cause permanent damage to the soil or any stream or to adversely affect the surrounding area; or by reason of the creation of noise, vibration, electromagnetic or other disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light reflection emanates; or which involves any dangerous fire, explosive, radioactive or other hazard; or which can cause injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants; and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or the general welfare. See also Chapter **154**, Noise, of the Code of the Village of Hillburn.

(2) The following uses are prohibited in all districts:

- (a) Open or partially enclosed storage of junk, refuse, paper, scrap metal, abandoned motor vehicles, and storage of unregistered vehicles.
- (b) The cooking, distillation, processing and incineration of animal products, including but not limited to food cannery plant, slaughterhouse, stockyards, fat rendering, soap manufacture, glue manufacture, tannery, paper manufacture, paint and varnish manufacture, creosote and creosote-products manufacture.
- (c) The production of corrosive and noxious chemicals, including but not limited to acids, acetylene gas, ammonia, chlorine, bleaching compounds.
- (d) The use of hammer mills, rolling mills or drop forges in any industrial process, and the testing or operation of jet engines and automotive screw machines.
- (e) The production, processing and storage of coal, coal tar, petroleum and asphalt products, including but not limited to coke manufacture, illuminating gas production, petroleum refining, bulk gasoline and petroleum storage, asphalt products, linoleum manufacture, oil cloth manufacture, roofing material manufacture.

- (f) The extraction, preparation and processing of dust-producing mineral products, including but not limited to abrasive, lime, fertilizer, plaster, crushed stone, stone-cutting products.
- (g) The smelting and reduction of metallic ores, including but not limited to blast furnace, open-hearth and electric furnace, nonferrous-metal smelter.
- (h) The manufacture and storage of explosive products, including but not limited to dynamite and commercial explosives, trinitrotoluene (TNT) and military explosives and fireworks.
- (i) Microwave receiving and transmitting towers.
- (j) Excavations, soil mining and quarrying as a principal use.
- (k) Automobile washing facilities.
- (l) Dumps, sanitary landfills, transfer stations, recycling facilities, construction and demolition dumps, resource-recovery facilities and junkyards, except those operated by the Village or when operated by an entity under contract with the Village to operate such a facility.
- (m) Trailer parks and mobile parks. Trailer parks and camps and mobile home parks are prohibited in all zoning districts.

This list is intended to be illustrative and not exhaustive. Any use which the Zoning Board of Appeals determines is similar in nature to the above uses and/or which meets the characteristics as described in 1(a) above shall be a prohibited use.

- H. Federal flood hazard area regulations. Within the Village of Hillburn there exist certain special flood hazard areas subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Adherence to Chapter 130, Flood Damage Prevention, of the Village of Hillburn Code shall be a requirement of any building permit, or any approval granted by the Planning Board or variance issued by the Zoning Board of Appeals.
- I. Rockland County stream regulations.
 - (1) Statement of purpose. Within the Village of Hillburn there exists certain streams shown on the Official Map of Rockland County, so designated to assist in the alleviation of recurring flood damage to public and private property and the prevention of danger to the public health and safety.
 - (2) Authority. The Legislature of the State of New York enacted the Rockland County Stream Control Law under authority of Chapter 846 of the Laws of 1975, granting to the Rockland County Drainage Agency the authority to issue permits for the performance of any construction work, maintenance of any structure, maintenance of any channel obstruction or placing of any fills within streams or within 100 feet from such streams as defined by the Rockland County Drainage Agency or for changing the location, cross section, course or current of any stream which is shown on the Official Map of Rockland County.

- (3) Requirements in county streams. The Planning Board shall not approve any final site plan or final subdivision plat or special use permit for property under the jurisdiction of the Rockland County Drainage Agency until the requirements of that agency have been met.

J. Environmental quality review.

- (1) Purpose. It is the purpose of the New York State Environmental Quality Review Act (SEQRA) to assure that consideration of environmental factors is incorporated into the planning and decision-making process at the earliest possible time. It is further the purpose of said regulations to assure that the procedure for such is consistent with the New York State Environmental Quality Review Act, as set forth in Article 8 of the Environmental Conservation Law. See also Chapter 105, Environmental Quality Review, of the Code of the Village of Hillburn.

- (2) Applicability.

- (a) An environmental assessment form shall be submitted simultaneously with the filing of an application for any permit or approval required by this zoning chapter that is not a Type II action as set forth in Section 617.5 of the regulations implementing SEQRA.
- (b) An Environmental Assessment Form shall be accompanied by a fee in accordance with the fee schedule of the Village of Hillburn.
- (c) Where more than one agency is involved in an action, the procedure of Part 617 of Title 6 NYCRR shall be followed to determine the lead agency.
- (d) No decision to carry out or approve an action, other than a Type II action, shall be made until there has been full compliance with the regulations implementing SEQRA, and Chapter 105, Environmental Quality Review, of the Code of the Village of Hillburn.

K. Environmental constraints. In order to limit development in areas with severe environmental limitations, the following regulations shall apply in all zoning districts. Development shall be situated so as to avoid being located on these features to the maximum extent.

- (1) Land under water: applicable prior to development. No portion of a parcel may be counted as part of any minimum lot area if subject to the following: ponds, locally designated wetlands; that portion of any stream under the jurisdiction of the Rockland County Drainage Agency; within the Federal Emergency Management Agency's designated one-hundred-year floodplain; within an area subject to a management or land use plan under the "wild, scenic and recreational river" designation; that portion of any freshwater wetland so designated by the New York State Department of Environmental Conservation; and that portion of any freshwater wetland regulated by the U.S. Army Corps of Engineers.

- (2) Steep slopes: applicable prior to development.

- (a) Not more than 50% of the land area of that portion of a parcel may be counted as part of any minimum lot area if subject to the following:
 - [1] For residential zoned properties, slopes over 15%.
 - [2] For nonresidential zoned properties, slopes over 15%.

- (b) No construction shall be permitted on that portion of a parcel with a slope in excess of 35%.
 - (c) No portion of the land area of that portion of a parcel with a slope in excess of 35% may be counted as part of the minimum lot area of a parcel.
- (3) Rock outcrops: applicable prior to development. Not more than 50% of the area of that portion of a parcel with rock outcrops in excess of 50 square feet in size may be counted as part of the minimum lot area of a parcel.
- L. Fences and walls.
- (1) Fences or walls surrounding any portion of a front yard shall not exceed four feet in height, except that, within 20 feet of a street line, the height shall not exceed 3 1/2 feet.
 - (2) A solid fence not more than six feet in height is permitted other than in a front yard. A solid fence is any fence with a solid or nonpermeable or opaque area exceeding 75% of its total area (uniformly distributed). Existing rock walls that serve as fences are permitted.
 - (3) Fences and walls shall have their finished decorative face directed to the abutting property. No supports, posts or bracing shall be placed on the side of the fence that faces any abutting lot, street, road or public right-of-way. No fence shall project beyond any property line.
 - (4) Height. Fence height shall be measured from the natural grade along the base thereof. Where a fence is installed on top of a berm or retaining wall, the height shall be deemed to include the height of the underlying berm or wall. Fences shall be provided with a gate or other means of access to the enclosed space for emergency purposes.
 - (5) Separation requirements. The minimum distance between a fence and a shared lot line shall be 18 inches unless it is established to the satisfaction of the Code Enforcement Officer that the fence is intended to be a common fence. In the case of a common fence, the Building Department may require proof of a recorded agreement between the contiguous lot owners to ensure future maintenance and repair of the common fence including future owners.
 - (6) Street right-of-way. All fencing must be contained within the confines of the owner's property, and at no time shall such fence be constructed upon lands of the Village. Access to municipal easements and right-of-way on any property shall be maintained and not obstructed without approval of the Village Board. The minimum distance between a fence and a municipal easement and / or right-of-way and / or municipally owned property line shall be five (5) feet unless it is established to the satisfaction of the Code Enforcement Officer that a fence may be located closer than five (5) feet without detriment to sight distance, easements, or other need for access. The Village Board may require a gate or other appropriate means to access any easement or right-of-way.
 - (7) Prohibited materials. No person shall be permitted to erect or cause to be erected any barbwire, razor, chain link except with closed loop at the top, electrically charged, short pointed metal, poultry, turkey wire, or any similar type fence. A chain link fence shall not be permitted within any front yard. Tarpaulin, canvas, cardboard and other impermanent materials are prohibited fence materials.

(8) Preexisting noncompliance. Any fence legally in existence on the effective date of this Zonign chapter shall be permitted to remain, provided that such fence is maintained. At such time that the fence is removed, altered or reconstructed, any new fence shall conform to these provisions.

(9) Corner lot exception. Upon approval of the Planning Board, a corner lot may be permitted to have a fence within one front yard. In said yard, it shall be installed at the required yard setback line.

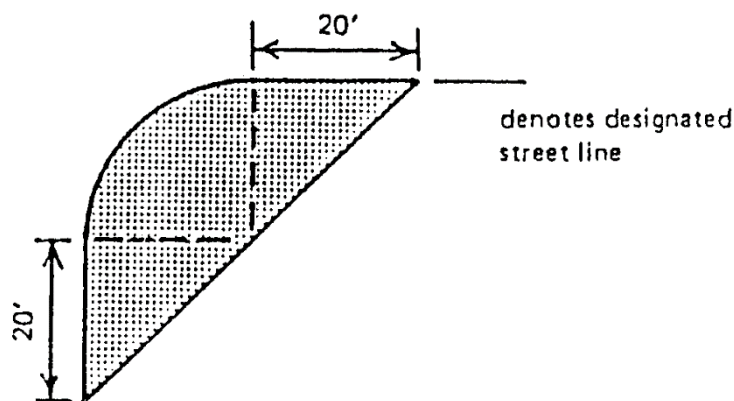
(10) Maintenance. Fences, walls and other minor constructions shall be maintained in safe, good and substantial condition and in sound structural condition.

M. Corner lots. On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The applicant shall elect or so designate on the plan which of the remaining two required yards shall be the required side yard and the required rear yard unless said yards have been determined during subdivision plan review and approval.

§ 250-18. Supplementary regulations applying to all residence districts.

A. Principal buildings. Unless otherwise allowed by the specific conditions associated with a special use permit, in the R-60, R-9 and R-6 zoning districts in the Village of Hillburn there shall be no more than one principal building located on each lot.

B. Corner lot sight distance. On a corner lot in any residence district, no fence, wall, hedge or other structure or planting more than 2 1/2 feet in height shall be erected, installed placed or maintained within the triangular area formed by the intersecting street lines or their projections where corners are rounded and a straight line joining said street lines at points which are 20 feet distant from the point of intersection or the point of curvature, measured along said street lines and/or projections.



C. Cluster development.

(1) Authority. Under authority of § 7-738 of the Village Law of the State of New York, the Board of Trustees of the Village of Hillburn grants to the Planning Board the authority to modify applicable bulk requirements of this zoning chapter with respect to approval of specific subdivision plats for residential purposes by requiring cluster development. Prior to the use of this authority, the Planning Board shall, in each case, obtain the approval of the Board of Trustees. The Board of Trustees may impose requirements as part of its approval.

- (2) Purpose. The purpose of this authorization shall be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land to facilitate the adequate and economical provisions of streets and utilities, to preserve the scenic qualities of open lands, to protect areas of meaningful ecological value, reduce flood hazards, minimize negative environmental impacts, improve the esthetic quality of new residential development, widen housing opportunities, encourage the conservation of energy, increase recreational opportunities, and discourage building on steep hillsides and hilltops.
- (3) Conditions. This procedure may be followed by the Planning Board upon written application by the owner or subdivider or at the initiation of the Planning Board. The Planning Board may allow or require the use of a cluster development approach if, in the Board's judgment, its application would benefit the Village, subject to the following conditions:
- (a) This procedure may only be applied to lands within the R-60, R-9 and R-6 zoning districts.
 - (b) The procedure may be used to modify the minimum lot area requirements; lot width; front, side and rear yards and setbacks; and street frontage. This procedure shall not be used to modify the maximum building height requirement.
 - (c) The resulting number of dwelling units shall in no case exceed the number which could be permitted in the Planning Board's judgment, if the land were subdivided into lots conforming with zoning regulations and any other local, county, state or federal regulations regulating land. The Applicant shall submit a conventional plan which shall be reviewed by the Planning Board to determine the maximum lot yield. The basis for this determination will be a conventional subdivision plat for the subject parcel showing all environmental constraints as per this Zoning chapter, as well as roads (including road grades), stormwater basins, required setbacks for individual wells and septic systems, grading and other information as may be required by the Planning Board. The Planning Board shall, by resolution, establish the maximum residential yield upon a review of the conventional plan layout. The Planning Board may waive submission of documentation of the full residential yield where, in the Planning Board's judgment, the number of lots proposed is substantially less than the total allowable residential yield, provided that the plat contains a notation clearly indicating the reduction in the total lot count for the entire parcel.
 - (d) Residences, i.e., housing types, that are otherwise allowed by right within the applicable zoning district shall be permitted.
 - (e) No less than fifty percent (50%) of the property shall be preserved as open space, and the Planning Board shall determine the location and ownership of the open space. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Village with the approval of the Village Board, or to a qualified not-for-profit conservation organization acceptable to the Village Board upon the recommendations of the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of subdivision plat approval. The conservation easement shall be enforceable by the Village if the Village Board is not the holder of the conservation easement. The conservation easement shall be recorded

in the County Clerk's office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's office or a site plan in the Planning Department.

(4) Preservation of land as open space.

(a) In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space, or other municipal purposes directly related to the plat, then the Planning Board as a condition of plat approval may establish such conditions as to the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The Board of Trustees may require that such conditions shall be approved by the Board of Trustees before the plat may be approved for filing.

(b) Open space land created as part of a cluster subdivision, and which is not required or permitted to be accepted for dedication to the Village of Hillburn, shall be in a form of common ownership or in a conservation easement, the form and content of which shall be subject to the approval of the Village Board and shall meet at least one of the following conditions:

[1] Each owner or owners of every subdivision lot shall be an owner in common with the other owners of the subdivision of the land intended to be held as open space.

[2] Each subdivided lot shall carry with it a covenant underwriting the payment of taxes on the open space land, which covenant shall bind the owner thereof and every successive owner thereof.

[3] A homeowners' or cooperative association or corporation may be formed to hold ownership of the open space, provided that each and every subdivided lot owner shall remain liable for the taxes, operation and maintenance of the open space land.

[4] Such other mechanism or form as shall be approved by the Village Board which shall satisfy the requirements of the payment of taxes and the operation and maintenance of the property so created.

[5] Public hearing. The proposed subdivision or site plan, including areas within which structures may be located, the height and spacing of buildings, open space and their landscaping, off-street open and enclosed parking spaces, and streets, driveways and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes or supplementations of existing zoning provisions as are not shown on said subdivision site plan, shall be subject to review and public hearing by the Planning Board.

[6] All open space lands shall be subject to a conservation easement and deed restrictions in a form satisfactory to the Village Attorney and approved by the Village Board.

(5) Filing. On the filing of the plat in the office of the County Clerk, a copy shall be filed with the Village Clerk, who shall make appropriate notations and references thereto in the Village Zoning chapter or Map.

D. Local housing. As part of any residential development or subdivision of a parcel larger than one acre in size, the Planning Board, subject to the approval of the Village Board, may require that

ten percent (10%) of the residences be of a type, nature, location and cost to be available to Village residents, subject to the following conditions:

- (1) Such local housing residences shall be physically integrated into the overall development.
- (2) Priority for such residences shall be given in the following order: (1) individuals who have been residents of the Village for more than five years; (2) individuals employed by the Village; (3) individuals who serve as first responders within the Village; (4) individuals who serve as first responders outside of the Village but within 5 miles of the Village.
- (3) A unit of local government or a nonprofit agency shall be selected by the Village Board to select residents and assume any management responsibilities.
- (4) The income level of eligible households shall be not more than 80% of the median income of households residing in the Village of Hillburn measured in the year immediately preceding the anticipated occupancy of the dwelling units.
- (5) The sales price or rental of a local housing unit cannot be greater than 2.5 times the income level of the eligible household.
- (6) A procedure shall be established whereby units, when vacated, can be made available to another eligible household.

§ 250-19. Supplementary regulations applying to nonresidential districts.

- A. Vehicular access to an existing or proposed nonresidential use through a residential zoning district is prohibited, unless said nonresidential use is specially allowed as a permitted use or special use in the residential zoning district.
- B. Property maintenance. The purpose of this section is to provide basic and uniform property and maintenance standards governing the condition and maintenance of all nonresidential uses, including but not limited to vacant lots, offices, places of public assembly, shopping centers, retail stores, warehouses, light industry, automotive repair, bus depots and other business uses. These regulations are in addition to the regulations set forth in Chapter 184, Property Maintenance, of the Village of Hillburn Code and the New York State Uniform Property Maintenance Code
- C. Deposit of debris on streets or right-of-way prohibited. No person shall deposit, blow, sweep, rake or otherwise cause debris to be put onto or into Town streets, sidewalks, drainage ditches, gutters, culverts or on any portion of the Town's ten-foot right-of-way. A violation of this section can be enforced by the Town Code Enforcement Officer, Code Enforcement Officer or any member of the Town of Ramapo Police Department.
- D. Maintenance standards.
 - (1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, stormwater sewers or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural safety or health hazard by reason of construction, maintenance or manner of discharge.
 - (2) Fences or other accessory structures shall be maintained in a safe and non-deteriorated condition.

- (3) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled, and necessary repairs or replacement shall be made.
- (4) Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation and debris. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood.
- (5) Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health shall be eliminated. Any trees or portions thereof located on private property and constituting a hazard to person or property shall be removed. Owners of vacant lots shall mow the lawns and cut all grass back a distance of 10 feet from the curb and/or the side of the road at least once a month from April 1 to November 30.
- (7) All fences and planting areas installed on the premises shall be maintained by the owner of the property. Such maintenance shall include but not be limited to the replacement of trees and shrubs which may die and/or otherwise be destroyed, the maintenance and cutting of lawns and the replacement and/or repair of fences which may be in disrepair.
- (8) Restaurants and other eating facilities shall have garbage containers sufficient in number for all of their solid waste and shall maintain them in satisfactory condition. Restaurants shall further maintain adequate grease traps to ensure that grease is not disposed of into the sewer.
- (9) Every exterior wall, roof and porch or appurtenance to a building shall be maintained in a manner so as to prevent collapse of the same or injury to the occupants of the building or to the public.
- (10) The foundation walls of every building shall be maintained in good repair and shall be structurally sound.
- (11) The owner of a vacated building shall take such steps and perform such acts as may be required of him from time to time by the town's Code Enforcement Officer to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or the public. All openings shall be provided with painted exterior-grade plywood closures, securely fastened.
- (12) Buildings and structures shall be maintained in such condition so that they shall not become an unoccupied hazard as defined in this chapter. All graffiti or defacing shall be removed and the surface finish restored within a five-day period.
- (13) All signs, awnings and lighting systems shall be maintained in a completely operable, clean, sightly, non-deteriorated and safe condition.
- (14) Electrical fixtures, devices, wiring and systems shall be maintained in safe working condition so as not to be a potential source of ignition of combustible material or an electric hazard or shock and shall be properly connected to a reasonable, adequate source of electrical power.
- (15) All plumbing fixtures, sanitary facilities, plumbing appliances and plumbing equipment shall be properly maintained in good working condition.

(16) Dumpsters. All dumpsters shall be enclosed with fencing and shrubs and other screening as approved by the Code Enforcement Officer.

(17) Unoccupied hazard. Unoccupied hazards shall be subject to condemnation in accordance with the laws of the State of New York and this town.

Article VII

Sign, Lighting and Landscaping Standards

§ 250-20. Sign standards - purpose and procedure.

- A. Purpose. The Village of Hillburn's ability to attract economic development is accomplished in part by land use regulations that maintain an attractive community and streetscape, of which signs are a contributing element. A multiplicity of signs clutters the overall appearance of the Village, detracts from its visual quality, and shall be discouraged. The objective of promoting a visually attractive streetscape shall be balanced with the objective of ensuring that a property owner or tenant is afforded ample and adequate means of identifying the occupancy or use of a property or establishment and/or conveying information in accordance with these sign regulations.
- B. Sign permit required.
- (1) Unless otherwise permitted by this section, no person shall hereafter install, structurally alter, enlarge, or relocate a sign without a sign permit issued by the Planning Board. A sign permit shall be issued only following submission, review and approval of a sign application and sign plan in accordance with the requirements set forth below, and payment of the required fee in accordance with the fee schedule established by the Board of Trustees.
 - (2) A sign permit shall not be issued for a sign if any other sign on the same premises and in the same ownership has been determined to be in violation of this section.
 - (3) A sign permit shall not be required for the repainting or refurbishing of an existing sign when using similar colors, letters and signs. The determination of similarity shall be made by the Code Enforcement Officer.
- C. Sign application. A sign permit application shall be submitted to the Planning Board and shall include the following:
- (1) A scale drawing of the sign which shows the content, colors, and proposed location of the sign.
 - (2) A drawing with appropriate notes, describing the construction of the sign and the method of attachment to a building or the ground.
 - (3) A description or sample of the materials of which the proposed sign will be made.
 - (4) A description of the proposed method of sign illumination, if any.
 - (5) Any other information deemed necessary to determine whether the sign is consistent with the regulations set forth herein.
- D. Review.
- (1) Time period for decision. At such time that the Planning Board deems that a complete application has been submitted with the information set forth above, the Planning Board shall review all sign applications and approve, disapprove, or approve with modifications the application within sixty-two (62) days of receipt of a complete application. Where a sign is being approved in conjunction with a site plan, the Planning Board shall review and approve

signs in accordance with the time frames established for site plan review and approval. The applicant shall submit to the Planning Board the sign information set forth in subsection C above. If a sign authorized by a permit is not installed within six months of issuance of the sign permit, said permit shall become null and void.

- (2) Criteria for sign plan approval. The Planning Board shall consider the following in its review of a sign permit application:
- (a) Accessory use. Signs must be clearly accessory uses on the lot on which they are located and are not permitted as a principal use on an individual lot.
 - (b) Proportion and scale. The size and content of the sign shall be the minimum essential for legibility and for the provision of information. The scale of signs should be appropriate for the building on which they are placed and the area in which they are located. The size and shape of a sign should be proportional with the scale of the structure. For example, small storefronts should have smaller signs than larger storefronts.
 - (c) Identification. Permanent signs are sized to be sufficient to identify a use conducted in a building or on a lot. The sign content is not regulated unless clearly and constitutionally offensive to the public.
 - (d) Quality. Signs shall be durable and weather resistant.
 - (e) Coordination with other signs. Signs located on a multi-tenant building shall be coordinated in design to avoid sign clutter. For buildings with multiple storefronts, signs for the individual businesses should relate well to each other in terms of locations, height, proportion, color, and illumination. Maintaining continuity reinforces the building's facade composition while still retaining each business identity.
 - (f) Colors. Colors shall not be garish. Contrast is an important influence on the legibility of signs. A substantial contrast should be provided between the color and material of the background and the letters or symbols to make the sign easier to read in both day and night. Light letters on a dark background or dark letters on a light background are most legible. Light letters on a dark background work best for both day- and night-time use. Neon and day-glo colors are not permitted.
 - (g) Coordination with building. Sign materials and colors should complement the materials and colors of the building on which the sign is situated or associated.
 - (h) Architectural elements and details, including historic building details. Signs should not cover or otherwise interfere with design elements that contribute to the building's character. Signs should not cover over architectural elements such as transom windows or vertical piers. Signs should fit into the building facade just as if they were one of the architectural elements. The building or storefront should be reviewed for its architectural elements that suggest a location, size, or shape for the sign. These could include the lintel band above transom windows, an entranceway that needs signage to provide direction, or display windows.
 - (i) Typeface. A multiplicity of different typefaces on an individual sign is discouraged. The number of lettering styles that are used on a sign should be limited in order to increase legibility. As a general rule, limit the number of different letter types to no more than two

(2) for small signs and three (3) for larger signs. Intricate typefaces and symbol-Is that are difficult to read reduce the sign's ability to communicate and effectiveness.

§ 250-21. Exempt signs.

A. Exempt signs. The following signs may be installed and maintained without a permit, provided that they comply with the regulations of this subsection A.

- (1) Historical markers, tablets and statuetes, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless, steel, or similar material; and emblems installed by governmental agencies, religious or non-profit organizations; not to exceed six (6) square feet in area.
- (2) Flags and insignia of any government.
- (3) Name and number plates, identifying residents, mounted on house, apartment or mailbox, not exceeding one square foot in area.
- (4) Non-illuminated warning, private drive, posted or no trespassing signs, not to exceed two (2) square feet per face.
- (5) One non-illuminated sign, either free standing or attached, in connection with any residential building in any zoning district, for permitted home occupations, not to exceed two (2) square feet. Such sign shall state name and location only.
- (6) Temporary signs for garage sales and auctions, not to exceed four (4) square feet for a period not to exceed seven (7) consecutive days in any thirty (30) day period.
- (7) Temporary non-illuminated "For Sale", "For Rent", real estate signs and signs of similar nature, concerning the premises upon which the sign is located. Real estate signs not more than eight (8) square feet in area shall be located behind the required front yard setback line. Not more than one (1) sign shall be permitted per every 100 feet of lot frontage.
- (8) One temporary sign for a roadside stand selling farm produce, provided that such sign does not exceed twelve (12) square feet in area and be set back at least ten (10) feet from the street right-of-way.
- (9) Temporary, non-illuminated window signs and posters providing such do not exceed twenty-five (25) percent of the window surface.
- (10) Temporary political posters, banners, promotional devices and similar signs, not exceeding four (4) square feet in area in a residential district, and not sixteen (16) square feet in the business district, provided placement shall not exceed 30 days. All such signs must be removed no later than 14 days after the event for which it is posted.
- (11) Temporary sign identifying a construction project and associated contractors, not exceeding eight square feet for a dwelling and sixteen square feet for other buildings.

§ 250-22. Nonresidential use sign standards.

A. Number and type of permanent signs. Except for any sign standards that may be set forth for an individual special use, the Schedule of Sign Requirements shall regulate the total number and size of signs allowed within each zoning district in the Village of Hillburn. A "P" indicates that the type

of sign is permitted in the applicable zoning district. A “NP” indicates that the sign type is not permitted in the applicable zoning district.

SCHEDULE OF SIGN REQUIREMENTS			
PERMITTED NUMBER AND TYPE OF SIGNS BY ZONING DISTRICT			
Zoning District ►	OS, R-60, R-9, R-6	LS, GC, RED, VC	LI
Permitted Number of Permanent Signs per Lot* ►	2	2	2
Sign Type ▼			
WALL SIGN – A façade sign attached parallel to a wall and not projecting more than 6 inches from same, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall and building, and which displays only one sign face.	P	P	P
PROJECTING SIGN – A façade sign mounted perpendicular to the surface of the wall.	NP	P	NP
ICONIC SIGN – A façade sign projecting perpendicular from the wall of a building that is a pictorial symbol conveying the nature of a business, e.g., a barber pole, eyeglasses, boots, mortar and pestle. They are normally constructed in heavy relief or are three dimensional.	NP	P	NP
FREESTANDING SIGN – A sign supported by one or two supports that are placed on, or anchored in, the ground independent of any building and which may display up to two faces. A freestanding sign may be installed on one or two posts on either side of the sign, or may be installed directly on the ground, i.e., a monument sign. Shall be set back no less than 20 feet from any setback line.	P	P*	P
FREESTANDING DIRECTORY SIGN – A type of freestanding sign that includes panels listing tenants in a multi-tenant building.	NP	P*	NP
WINDOW SIGN - A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, but not including graphics in connection with customary window display of products.	NP	P	NP
AWNING SIGN – A retractable or fixed shade-producing or weather-protection device made of flexible material, which is attached to a building or extends over a window or door.	NP	P	NP
BILLBOARD – Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises it is so situated.	NP	NP	P
Notes: *For any lot with a multi-use or multi-tenant building, one freestanding sign or freestanding directory sign is permitted for the building, and two signs (other than a freestanding or freestanding directory sign) shall be permitted for each tenant or use.			

B. Design standards applicable to all signs.

(1) Sign content. With the exception of a freestanding directory sign, a sign may indicate the name, address, and/or phone number of the principal use located thereon.

(2) Illumination.

- (a) Sign lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. Lighting shall be cast downward.
- (b) Externally illuminated signs that project light onto the sign shall be permitted. The light source shall be shielded from direct view.
- (c) Internally illuminated box signs are prohibited.

(3) Materials.

- (a) Paper and injection molded plastic signs are not permitted.
- (b) Raised surface-mounted letters of wood, steel, brass, stainless steel, bronze or PVC resin is preferred; sheet metal, finished plywood is permitted.
- (c) Flat framed wooden signboards or synthetic resin boards with carved raised or recessed lettering or professionally-printed letters are permitted.
- (d) Signs with gold-leaf lettering are encouraged.

C. Wall façade sign design standards.

- (1). One wall sign per building or tenant is allowed on the façade facing a public street. The sign shall not conceal any part of a window and shall not extend above the roofline.
- (2) The maximum length of a wall sign shall not exceed 70 percent of the length of the building façade fronting to the street or tenant's front façade, whichever is less. The maximum height shall not exceed two (2) feet.

D. Projecting façade sign and iconic façade sign design standards.

- (1) One projecting or iconic sign per building or tenant is allowed on the façade facing a public street. No projecting sign shall overhang the public way, and its bottom shall not be mounted above the level of the second story window sill. The sign shall maintain a minimum clearance of eight (8) feet from the ground.
- (2) The maximum length shall not exceed four (4) feet. The maximum height shall not exceed four (4) feet.
- (3) The maximum sign area shall not exceed twelve (12) square feet.
- (4) Projecting signs shall be securely installed. Where an Applicant proposes a projecting sign that would project into the public right-of-way, approval may be conditioned upon the applicant holding appropriate liability coverage to hold the Village of Hillburn harmless for any action associated with the sign, and with approval from the applicable jurisdiction of the right-of-way.

E. Freestanding sign and freestanding directory sign design standards.

- (1) One freestanding sign or one freestanding directory sign is allowed per principal building. Only

one freestanding sign shall be allowed on any property.

- (2) A freestanding sign is permitted in the front yard setback but shall not overhang a property line, driveway or walkway. The Code Enforcement Officer or Planning Board may consult with the DPW Director, NYSDOT or Village Engineer with regard to the placement of the sign to ensure adequate sight distance is maintained. No sign shall interfere with required sight distances.
- (3) The maximum height of the sign shall not exceed ten (10) feet from ground level to the top of the sign. The maximum length shall not exceed five (5) feet.
- (4) The maximum sign area shall not exceed twenty-five (25) square feet.
- (5) A freestanding sign for a single tenant shall be hung or supported by a single post. A freestanding directory sign may be hung or supported by two supports.
- (6) For a freestanding directory sign, each panel identifying a use shall be the same dimension, no less than eight (8) inches, nor more than one (1) foot in height. The colors used for background and lettering shall be the same on each panel, and no more than three colors may be used. One panel may be larger than the remainder, but in no case shall the total of all panels exceed the maximum sign area.
- (7) The posts to which a freestanding sign is mounted shall be wood or resin with a minimum diameter of four (4) inches. Treated wood posts shall not be used unless painted, stained, or finished with clear polyurethane. The top of the posts shall be decorative, either through an appropriate wood cut or use of finials.
- (8) Signs shall be installed in a landscaped bed or box unless the Code Enforcement Officer determines that installation of the landscaped bed or box would interfere with traffic maneuvering or sight distance.

F. Window sign design standards.

- (1) One window sign is permitted per building or per tenant.
- (2) All signs within a window – permanent or temporary - shall not exceed 35 percent of the total area of the window in which the signs are located nor shall the total window sign area exceed 35 percent.

G. Awning sign design standards.

- (1) An awning sign may be located above an entrance or window. The height of the skirt on the extension shall not exceed eight (8) inches. An awning sign may be permitted in addition to a wall or projecting sign, provided that the only information conveyed on the awning is a logo, phone number or street address located on the skirt.
- (2) Awnings shall be constructed of a material which shall be rot, weather, and abrasion resistant.
- (3) Awnings with a single, solid color are permitted. Awning colors should complement the colors of the building. Colors that call more attention to the awning than the building are inappropriate. Preferred colors include forest green, maroon, dark blue or black.

- (4) Where awnings have been installed previously on a building, the Code Enforcement Officer may require that the same shape or color of awning be installed.
- (5) Awnings should be designed to project over individual window and door openings (i.e., mounted in the reveals of openings). Awnings that are a continuous feature, extending over several windows, doors, masonry piers, or arches, are not permitted.
- (6) Where an awning projects into the public right-of-way, approval may be conditioned upon the applicant holding appropriate liability coverage and holding the Village of Hillburn harmless.

H. Miscellaneous sign requirements.

- (1) Wall murals. A wall mural may be permitted at the discretion of the Village Board and is not subject to the maximum sign requirements set forth in the Schedule of Sign Requirements.
- (2) Banners in public rights-of-way. Banners, flags, and other temporary signs advertising seasonal events, e.g., a farmer's market, are subject to approval of the Village Board.
- (3) One temporary sandwich board sign shall be permitted per use, provided it is made with permanent materials such as wood and a chalk board, is located on the property to which it is accessory, and is not left outside overnight (between the hours of 9 PM and 7 AM) which may advertise daily menus or daily sales. The Village Board shall approve any sandwich board sign located within any Village right-of-way.

§ 250-23. Prohibited signs.

A. Prohibited signs. Prohibited signs are not permitted and shall not be installed in the Village of Hillburn. Prohibited signs are as follows:

- (1) Signs that revolve, oscillate, or otherwise move or which utilize flashing, blinking or scrolling lights or multiple illuminating units which operate alternately. Colored lights of such shape and hue that may be confused with official traffic lights and signals shall be prohibited.
- (2) Banners, pennants, ribbons, streamers, spinners, or similar moving fluttering or revolving devices, except as allowed in §250-21.A (10).
- (3) Signs which emit noise, sounds or smoke, including audio signs.
- (4) Signs of a prurient or sexual nature or advertising businesses, commodities or services of a prurient nature, which are offensive to the community.
- (5) Signs made of cardboard, paper or similar impermanent material, except temporary signs displayed within a window area of a commercial use which shall not cover more than twenty-five percent (25%) of any window area or placed so as to obstruct the view inside the building.
- (6) Signs placed, painted or drawn on utility poles, bridges or on other road, utility structures or signposts; or on trees, rocks or other natural features. No signs shall be placed on municipal property without the permission of the Village Board.
- (7) Signs erected, maintained or displayed which create a public hazard to health or safety by reason of the manner of its construction or placement or the nature of the materials used

therein.

- (8) Sign or graphics that impair or cause confusion of vehicular or pedestrian traffic, by design, color or placement. No sign shall obstruct the sight distance of the motorist at a street corner or intersection by placement and location within twenty-five (25) feet of the intersection of the street or highway lines.
- (9) Signs which are leased or rented for economic gain, including a sign commonly known as an advertising sign or a billboard, including those which advertise or promote any business, profession, interest or product on a lot other than upon the premises whereon such sign is situated.
- (10) Signs installed upon the roof of any building.
- (11) Signs that are internally illuminated, including box signs.
- (12) Neon signs, and LED rope, strip or string lights.
- (13) Neon or LED change board signs.

§ 250-24. Maintenance, enforcement, nonconforming signs.

- A. Maintenance required. No sign, whether new or existing, shall hereafter be erected or altered, except in conformity with the provisions of this section. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring or loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety. In the event of violation of any of the foregoing provisions, the Code Enforcement Officer shall give written or personal notice, specifying the violation to the owner of the sign and the owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of the sign and the owner of the land within 30 days from the date of said notice. In the event such sign shall not be so conformed within 30 days, the Code Enforcement Officer shall thereupon revoke the permit, and such sign shall be removed by the owner of the sign and/or the owner of the land.
- B. Planning Board waiver of sign regulations. Where a sign application does not meet the standards and requirements set forth above, an applicant may appear before the Planning Board which may, in its discretion, grant a waiver of these sign regulations where it finds that the literal application of this Article would substantially impair the visibility of a sign resulting from site characteristics unique to the property, e.g., exceptional topographic conditions, not created by the owner or applicant, on which the sign is to be located, or where the Planning Board determines that the waiver would have a beneficial effect on the architectural or historic character of a property. Any waiver shall not be detrimental to property owners in the vicinity, shall not result in undue concentration of signs, shall not be detrimental to public health and safety, and shall not have the effect of nullifying the intent and purpose of this section or the zoning chapter. In allowing any waiver, the Planning Board may attach such conditions as are, in its judgment, necessary to secure the objectives of the standards or requirements so modified. The Planning Board is not authorized to waive the requirements establishing prohibited signs set forth in this zoning chapter.

C. Enforcement.

- (1) The Code Enforcement Officer shall enforce the provisions of this section and is authorized to bring such criminal or civil proceedings at law or in equity on behalf of the Village of Hillburn as may be necessary to compel compliance, or to pursue any other remedies available under this chapter or the laws of the State of New York.
- (2) Any sign existing on or after the effective date of this section which is no longer accessory to an existing activity on the premises shall be removed by the owner of the premises upon which such sign is located within sixty (60) days after the use has ceased operation or upon written notice of the Code Enforcement Officer as set forth below. The Code Enforcement Officer, upon determining that any such sign exists, shall notify the owner of the premises in writing to remove said sign within thirty (30) days from the date of such notice. Upon failure to comply with such notice within the prescribed time period, the Code Enforcement Officer is hereby authorized, subject to due process procedures, to remove or cause removal of such sign, and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located. If the Code Enforcement Officer shall find that any sign regulated by this section is unsafe or not properly secured, or is a menace to the public, he shall give written notice to the named owner of the sign and the named owner of the land upon which the sign is erected, who shall remove or repair said sign within ten (10) days from the date of said notice. If the sign is not removed or repaired, the Code Enforcement Officer shall revoke the permit issued for such sign, as herein provided, and may, subject to due process procedures, remove or repair said sign and shall assess all costs and expenses incurred in said removal or repair against the land or building on which such sign was located. The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.

D. Nonconforming signs.

- (1) Except as regulated below, any nonconforming sign, lawfully existing on the effective date of this section, may continue indefinitely, except if such non-conforming sign is discontinued, removed, not maintained or structurally altered for any reason, or is deemed by the Code Enforcement Officer to be irreparably dangerous or defective, such exemption period shall terminate and shall result in the immediate removal of the nonconforming sign.
- (2) Existing non-structural signs, such as portable signs, banners, pennants, and similar non-conforming signs within the provisions of this law, shall be brought into compliance or removed within ninety (90) days of the effective date of this law.
- (3) No non-conforming sign shall be enlarged or replaced by another nonconforming sign.
- (4) No alteration or repair shall be made to a non-conforming sign involving a cost in excess of 50 percent of the value of the sign.
- (5) A non-conforming sign may be temporarily removed for painting or other normal maintenance for a period not to exceed one (1) month.

§ 250-24. Lighting standards.

- A. Purpose and applicability. It is the purpose of this section to minimize light pollution in the Village of Hillburn by:

- (1) Using fixtures with optical controls that distribute light in the most effective and efficient manner.
 - (2) Using shielded outdoor light fixtures where required and wherever feasible.
 - (3) Assuring that the light generated by outdoor fixtures does not extend beyond the property line of the property from which it emanates at levels exceeding the requirements of this section.
 - (4) Requiring that certain outdoor fixtures be extinguished during nighttime hours as shall be determined by the Planning Board during site plan, special use permit, and subdivision plan review.
 - (5) Fixtures for one-family detached or two-family residences shall not be directed off-site.
- B. Lighting plan. As part of any site plan or subdivision plan, a lighting plan and supporting data shall be submitted. Said plan and data shall illustrate proposed fixture locations, lighting levels measured in foot-candles, details and illustrations of proposed fixtures, glare control devices, lamps, mounting heights, and a description of hours of operations and proposed maintenance. The Planning Board may require illumination intensities to be plotted on a 10-foot by 10-foot grid. The Planning Board shall approve the architectural style of the fixture(s).
- C. Standards. Lighting shall conform to the following standards:
- (1) All lighting, including sign lighting, shall be designed and arranged so as to minimize glare and reflection on adjacent properties.
 - (2) The style of the light, light standard, pole and fixture shall be consistent with the architectural style of the building and its surroundings. Wall pak or packs are not allowed unless approved by the Planning Board, and only when such fixtures are fully shielded and cast light downward, and shall not cast light outward so as to be visible from surrounding roads and properties. No wall pak or packs shall be installed on any nonresidential building unless having been approved by the Planning Board, and shall be fully shielded.
 - (3) The maximum total height of the light pole measured from the ground to the top of the fixture or for building mounted light fixtures shall not exceed sixteen (16) feet unless waived by the Planning Board.
 - (4) The source of the light shall be fully shielded with full 90 degree cut-off luminaires or located such that it shall not be visible beyond the property boundary on which it is situated.
 - (5) All outdoor lighting shall be of such type and location to provide a minimum illumination of one (1) foot-candle in publicly-accessible areas and shall be shielded so as to prevent the source of the light from being a visual nuisance to any adjoining residential property.
 - (6) Illumination from light fixtures shall not exceed 0 foot-candle at the property line. A maximum Uniformity Ratio (average to minimum) of 4:1 shall be achieved. Maximum illumination levels shall be 10 footcandles, unless waived by the Planning Board.
 - (7) The Planning Board, as a condition of approval, may impose limits on the hours of lighting operation. The Planning Board may require that lights be controlled by automatic timing

devices. The Planning Board shall consider the need to provide security in determining the hours of operation.

(8) Light control shall be accomplished primarily through the proper selection and layout of lighting fixtures. The installation of landscaping, fences, walls or similar screening devices may also be considered by the Planning Board.

(9) Mercury vapor lights and quartz lamps are prohibited light sources, except to the extent that the local utility provider utilizes same for street lighting. Energy-efficient light sources are encouraged. To provide optimum color rendition for LED lighting, white LED 2700 K to 3000 K is preferred. All lighting fixtures shall be consistent with the recommendations of the International Dark Sky Association.

(10) Luminance and uniformity. Light levels shall be designed not to exceed the latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IESNA) for the type of activity/area being lighted, except light levels for ATM machines shall be in accordance with the New York State ATM Safety Act. Where no standard is available from the IESNA, the applicable standard shall be determined taking into account the levels for the closest IESNA activity. Where said standard is inconsistent with the foot-candle requirements set forth herein, the more stringent shall govern.

(11) The Planning Board may impose conditions on any site plan, subdivision plan or special use permit to ensure that the objectives of this section are met.

(12) Waivers. Where site conditions warrant exceptions to the strict application of the standards in this section, the Planning Board may waive the requirements set forth herein.

§ 250-25. Landscaping standards.

A. General. Landscape materials shall be utilized in a positive manner in all developments for purposes of architectural enhancement, space articulation, screening, privacy control, erosion control, noise control, atmospheric purification, traffic control, glare and reflection control, solar radiation control, wind control, precipitation control and temperature control. All areas of a lot not left in a natural state and not developed with buildings, driveways or other impervious surfaces shall be maintained continuously in a dust-free condition by installing suitable landscaping, including trees, shrubs, grass or other ground cover, or by providing a stable pervious surface, such as pervious pavers, gravel, crushed rock or similar material. Yards shall be landscaped and maintained in a manner consistent with the general character of the neighborhood in which the property is situated. Landscape treatments shall minimize soil erosion and stormwater runoff and provide necessary screening as set forth herein.

B. Landscaping standards. A landscape plan shall be submitted in conjunction with any site plan or special use permit application. The following standards shall be met:

(1) Landscaping shall be appropriate to the project, and the native vegetative cover shall be preserved to the maximum extent practicable. Natural areas shall be protected during construction. A concerted effort shall be made during the design stage to integrate natural features of the site into the proposed site plan.

(2) A landscape plan shall be prepared by a New York licensed landscape architect or other professional competent in the area of landscape design. The Planning Board, as a condition of approval, may require that the landscape consultant periodically inspect and monitor the

construction and installation of landscape materials.

- (3) A landscape plan shall include plant selection suitable to the conditions of the site. Plant specimens native to the region are to be used to the greatest extent practicable.
- (4) Within the area of proposed disturbance, the location of trees with a diameter of eight (8) inches or greater measured at chest height ("dbh") shall be indicated on the plan. The tree specimen and its conditions shall be noted on the plan. Healthy trees eight (8) inch dbh shall be preserved to the maximum extent practicable.
- (5) For areas near roads, plants shall be selected according to their hardiness and ability to withstand highway salt conditions or snow "throw" compaction.
- (6) In parking lots, landscape medians to receive plant materials shall have a minimum inside width of five (5) feet, except that, where vehicle overhang is permitted, an inside width of ten (10) feet shall be required.
- (7) Approved mulch shall be spread within a landscaped space at a level not to exceed one and one-half (1½) inches below top-of-curb, and at a depth of not less than three (3) inches. Mulch shall be placed in all planting beds to a minimum three-inch depth. Mulch may consist of clean wood chips, pine bark, peat moss, stone aggregate, or other approved material. As a general guideline, mulch shall be clean, homogeneous, attractive, and self-matting so that it does not blow in the wind.
- (8) Areas that will receive continued pedestrian movement shall be paved. Paving can be cast-in-place concrete, stamped concrete, or precast concrete unit pavers set in an approved setting bed. Bituminous concrete or asphalt walks are not acceptable.
- (9) In general, planting designs shall strive for year-round seasonal interest and a natural, yet ornamental, appearance.
- (10) Attention to environmental objectives and energy conservation, as well as design value, should be evident in the landscape plan. Environmental applications for plantings can include, among others, air filtration, temperature modification, natural slope stabilization, provision of edible fruit bearing plants, the use of NYSDEC recommended wetland plants in wetland buffer areas, etc.
- (11) Plantings of all types shall be completed only at such times as weather and soil conditions are favorable for seed germination, plant establishment and subsequent growth. Generally, such conditions occur between April 1 and June 1 and between August 20 and October 15; however, conditions vary for different plants and different years. Accepted horticultural practices shall be followed in this regard.
- (12) Extreme care and caution shall be exercised in grading operations around existing trees scheduled for preservation. Protective tree fencing shall be placed around the tree(s) at or beyond the dripline(s). Cuts within the dripline, or the addition of 12 inches or more of fill, can result in tree mortality and shall be avoided to the maximum extent.
- (13) Tree wells are encouraged where grading necessarily comes in close proximity to trees. In areas of fill, the tree well should be concentric to the dripline, and of a diameter at least half that of the dripline. In areas of cut, the tree well should also be concentric to the dripline but

should be of a diameter at least equal to that of the dripline. In cases where grade changes affect only one side of the tree, partial tree wells are acceptable.

- (14) The use of earth berms and other grading techniques is allowed, especially on flat sites or in locations where screening is warranted or necessary. The height, size and width of the berm shall be suitable for the intended plantings and shall fit with the character of the overall proposed design of the site.
 - (15) The use of flowering annuals and perennials is recommended in areas close to pedestrian movement and shall receive frequent maintenance.
 - (16) A mix of plant materials, sizes, habits and textures shall be selected for each planting plan. Over-planting of any one species shall be avoided. The use of indigenous species is encouraged. The use of exotic species shall be avoided to the maximum extent and the use of invasive species is prohibited.
 - (17) Construction practice and planting specifications should follow ANSI Z60.1 American Standards for Nursery Stock or equivalent.
 - (18) All plantings shown on an approved landscape plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with the specifications of the approved plan.
 - (19) Erosion and sedimentation controls shall be provided and designed in accordance with the New York State Department of Environmental Conservation Best Management Practices.
- C. Screening. As a condition of approval, the Planning Board may require that a screen be established to minimize views of parking areas, facilities, and buildings associated with nonresidential uses from adjoining residences or the public right-of-way. These are in addition to any buffer required by this Zoning chapter. Transformers, gas meters, dumpsters and similar appurtenances shall also be screened. Plantings shall be indicated on the site or subdivision plan and shall meet the following standards:
- (1) Plant materials shall be no less than six (6) feet in height when planted and shall be spaced to form a continuous, solid screen at maturity. Plant materials shall be spaced at distances no greater than ten (10) feet on center or other suitable distance, based on the specimen to be planted, which will provide adequate screening within five (5) years after installation. Coniferous trees and shrubs shall be used to provide year-round screening.
 - (2) A wall, fence (finished side out), or earthen berm may be substituted for, or required in conjunction with, planting materials, upon approval of the Planning Board. The Planning Board shall establish conditions on the location, height and design of same.
- D. Waivers. Where existing topography or vegetation or other circumstance provides adequate landscaping or screening which warrants an exception to the strict application of standards in this section, the Planning Board may waive the landscaping or screening requirements set forth in this section.

Article VIII

Off-Street Parking and Loading Areas

§ 250-26. Off-street parking.

- A. Purpose. This section is intended to provide for the location and design of off-street parking areas to accommodate motor vehicles, while balancing the needs of pedestrians, hikers, and bicyclists. Parking areas are accessory to the principal use of a property. Parking area design should reflect that relationship, reducing the visual prominence of the parking area while emphasizing the primary buildings and orienting pedestrians toward the principal entranceways and walkways of a building. Standards in this section addressing the location and design of parking areas are intended to meet this purpose. A secondary purpose of this section is to address the quantity of parking provided. Minimum standards are provided for each use type. Flexibility is provided in meeting these parking standards through alternative parking provisions.
- B. Applicability. The parking requirements of this section shall apply to new development, expansions and increases in building size, density or intensity, and changes of use, as follows:
- (1) New development. Unless otherwise expressly stated, the parking standards of this section apply to all new development.
 - (2) Any expansion or increase in nonresidential building size or density on a lot.
 - (3) Any increase in the number of residences on a lot.
 - (4) Change of use. When the use of a lot or building changes, additional off-street parking facilities must be provided when the number of parking or loading spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the building based on the minimum parking standards of this section, i.e., the owner must provide parking equal to the difference between the parking requirement for the existing use and the parking requirement for the new nonresidential use, not the difference between the actual existing parking and the parking requirement for the new nonresidential use.
- C. Schedule of parking requirements. The minimum accessory off-street parking spaces, open or enclosed, shall be provided for uses as specified in the Schedule of Parking Requirements, except that the Planning Board may require more spaces based on an analysis of the specific application, based on the factors set forth below after the Schedule. Any land developed as a unit under single ownership and control shall be considered a single lot for purposes of these parking regulations. Reasonable and appropriate off-street parking requirements for buildings and uses which do not fall within the use categories listed in this section shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use.

Schedule of Parking Requirements	
Use	Minimum Number of Parking Spaces
Residential Uses	
One family detached residence	2 parking spaces per residence
Two family detached residence	2 parking spaces per residence
Multiple Residence	1 space per one bedroom residence; 2 spaces per two bedroom residence; 2 spaces per 3 and more

Schedule of Parking Requirements	
Use	Minimum Number of Parking Spaces
	bedroom residence, and an additional 1 visitor parking space per every 4 residences.
Mixed Use Residential Above Commercial	2 parking spaces per dwelling
Nonresidential Uses	
Animal sanctuary	1 parking space per employee, plus one parking space per guest unit, plus one parking space per every visitor during peak visiting time period
Antique shop, art gallery	1 parking space per 200 square feet of retail floor area, plus one space per employee during peak shift
Farm Market	One space 5 feet of frontage or 100 square feet of floor/sales area, whichever requirement is less
Craft workshop	One space per 200 square feet of gross floor area
Automotive garage	Five spaces plus one per employee on the largest shift
Bar, restaurant	One space per every three seats, plus one space per employees working on the peak shift
Bank	One space per 200 square feet of gross floor area
Building contractor	One space per employee on the peak shift, plus one space per 200 square feet of office area for customers
Bus terminal	One space per employee on the peak shift, plus one space per 200 square feet of seating area for passengers
Cemetery	Minimum capacity for 40 vehicles clear of any public street
Child daycare center	One space per 350 square feet of gross floor area, exclusive of exterior play areas
Community facility	One space per 200 square feet of gross floor area
Conference center	One space for each 200 square feet of floor area open to the public including assembly areas. Administrative office space is to be parked at one (1) space per three hundred (300) square feet of administrative floor area.
Concrete mixing plant	One space per employee on the peak shift, plus one space per 200 square feet of office area for customers
Fire, police, ambulance and similar municipal building	One space per employee or volunteer during the peak shift
Health Fitness Facility, day spa	Not less than the highest design hour as determined by the Planning Board.
Hotel, resort	1 space per each guest unit, plus 1 per 3 employees in the maximum working shift, plus additional spaces for auxiliary uses in accordance with the schedule for

Schedule of Parking Requirements	
Use	Minimum Number of Parking Spaces
	each use
Landscape Materials, wholesale or retail trade	One space per each 250 feet of any retail building space, plus one per employee on the largest shift
Laundromat	One space for every 2 washing machines, plus one space per employee on the peak shift.
Light industry and research	One space per 2 employees in the maximum working shift, plus 1 space per 1,000 square feet of office area
Microbrewery, tourism related winery, brewery, distillery, or similar food processing	One space per employee on the peak shift, plus one space per every 200 square feet of customer area.
Museum, cultural and performing arts center	One space for each 200 square feet of floor area open to the public including assembly areas. Administrative office space is to be parked at one (1) space per three hundred (300) square feet of administrative floor area.
Nursery school	1 space per 100 square feet of floor area in such use or 1 per 4 seats capacity, whichever requirement is greater
Parks and playgrounds	As determined by the Planning Board
Offices	One space per 200 square feet of floor area
Place of Worship	One space per 200 square feet of floor area or 4 seats capacity, whichever is greater
Public school	One space per 300 square feet of floor area or 12 student seats, whichever requirement is greater, plus 1 space per 2 enrolled students over the age of 16
Public utilities	As determined by the Planning Board.
Recreation, Commercial Indoor	Not less than the highest design hour as determined by the Planning Board.
Retail, deli, dry cleaning establishment, general store, grocery store	One space per 150 square feet of gross floor area
Shopping center, designed	One space per 150 square feet of gross floor area
Tourism related use	One space per 150 square feet of gross floor area
Personal service use	One space per 150 square feet of gross floor area
Wholesale or warehouse use	One space per employee on the peak shift, plus one space per every 200 square feet of customer area, plus one space per 1,000 square feet of gross floor area for customers (wholesale only), but no less than one space per 500 square feet of space.
Any use not listed	Determined by the Planning Board

The amount of parking shall be based on the Schedule of Parking Requirements above, adjusted as necessary to consider the following factors:

- (1) Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources.
- (2) The characteristics of the proposed customers, residents, occupants or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than non age-restricted units, though the number of dwelling units might be the same.
- (3) The expected occupancy rates, traffic levels and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
- (4) Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
- (5) The likelihood that parking will be shared with adjoining facilities, the impact of daily peak visitation or use periods on demand and the hours of operation as compared to other neighborhood activities.

C. General standards.

- (1) All off-street parking areas and driveways, except those serving a one-family detached residence, must be constructed with a suitably paved surface. Both impervious paving and pervious paving, such as pavers, pervious asphalt, and similar surfaces which allow some percolation of stormwater may be permitted. Loose gravel is not permitted.
- (2) The storage of merchandise, materials, equipment, refuse containers, obsolete or junk vehicles or the major repair of vehicles in public and private parking lots is prohibited.
- (3) Except for recreational or a commercial vehicle allowed by this Zoning chapter as regulated below, vehicles other than passenger vehicles may not be parked or stored in any residential zoning district.
- (4) All required parking spaces shall be suitably drained. No required parking space or loading space shall exceed a grade of five percent (5%), unless specifically permitted by the Planning Board. The maximum gradient of driveways serving a residential use shall not exceed fourteen percent (14%). A driveway shall have a platform with a gradient not exceeding two percent (2%) within twenty-five (25) feet of the edge of the pavement of the street on which the driveway is accessed. The driveway shall have a negative gradient where it meets the street pavement sufficient to prevent flow of drainage onto the street. Upon good cause shown, the Planning Board may, in granting approvals, modify such requirements to the minimum extent needed to prevent undue hardship. Such modifications must be expressly requested in writing by the Applicant/Owner.
- (5) Except where any other section of this zoning chapter requires greater distances, no required parking spaces shall be nearer than:
 - (a) Five (5) feet to the wall of any building, except a building that is served by the parking or loading spaces, e.g., a warehouse building.

- (b) Five (5) to a side or rear property line for any residential use.
 - (c) Fifteen (15) feet to a side or rear property line for any nonresidential use except that nothing shall be construed to permit parking in a buffer.
 - (d) Twenty-five (25) feet to the boundary line of any adjoining areas zoned for residential use or a property in residential use on a property that is in nonresidential use except that nothing shall be construed to permit parking in a buffer.
 - (e) Enclosed parking within primary and accessory buildings shall be exempt from this restriction and the building shall otherwise meet the bulk requirements of this Zoning chapter.
- (6) Except for on-street parking that is permitted to satisfy parking requirements, no off-street parking spaces shall be located within a public right-of-way.
 - (7) Accessory parking in residential districts. Off-street parking shall not be permitted within the front yard, except that where a lot is used for a one-family detached or two-family dwelling, off-street parking may be permitted in the front yard only within a paved driveway. Within the front yard, no driveway shall exceed 10 feet in width. Where a driveway gives access to a garage opening(s) located within the front facade of a dwelling, the driveway width may exceed 10 feet, but shall not exceed the width of the garage opening(s) plus one foot on either side of the garage opening(s), or 25 feet, whichever is less. For purposes of these regulations, the front facade is any portion of the exterior wall of the dwelling opposite to and facing the front lot line.
 - (8) Accessory parking in a nonresidential district. In any nonresidential district, required off-street parking spaces may be located outside the required side yard or in the rear yard only. The Planning Board may permit a portion of the parking within the front yard outside the required front yard, provided the parking area is screened from the public right-of-way by a landscape strip.
 - (9) Double-loaded spaces or stack parking shall not be permitted as a means of satisfying the parking requirements except for one-family detached residences within a driveway.
 - (10) Parking shall be so arranged as to provide adequate area for fire zones.

D. Parking area design.

- (1) Location. Off-street parking spaces shall be located on the same lot as the use served except as allowed in Subsection H, Alternative parking requirements, below. Where practicable, parking should be located behind the front facade of the principal building on a lot.
- (2) Parking dimensions. The minimum parking stall width for a perpendicular parking space shall be nine (9) feet and the minimum length shall be nineteen (19) feet. At the Planning Board's discretion, the minimum length of the parking space may be reduced by an additional (1) foot where the space is designed to allow a vehicle to overhang a curb or wheel stop or over a landscaped or lawn area. Accessible parking spaces shall be provided and shall meet standards of the Americans with Disabilities Act.

- (3) Parking aisles. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements specified below, with varying aisle widths based on the angle of the parking stalls and the direction of traffic on the aisles.

Parking Angle	One-Way Aisle Width	Two-Way Aisle Width
Degrees	Feet	Feet
90	24	24
60	18	---
45	13	---
30	12	---
0 (parallel)	12	--

- (4) There shall be adequate provisions for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined locations and in no case shall there be permitted unrestricted access along the length of the street or alley upon which the parking area abuts. The Planning Board may require that a nonresidential parking lot and driveways be curbed to meet this requirement. No entrance or exit for any off-street parking area shall be located within seventy-five (75) feet of any street intersection. The Planning Board may waive this requirement as part of site plan or subdivision review and approval, provided that it is demonstrated to the satisfaction of the Planning Board that vehicles can safely exit a parking space due to low volumes of traffic on the road to which the driveway shall obtain primary access.

E. Parking area landscaping.

- (1) Purpose. Parking lot landscaping is intended to break up expanses of pavement, create shade, buffer views of parking lots from adjacent streets and buildings, and enhance the overall appearance of developments. The Planning Board may require that landscaped areas be protected by curbs, wooden railroad ties, or other improvement to ensure that vehicles will not park on top of the landscape area.
- (2) Applicability. All parking lots with 10 or more parking spaces or eight (8) or more spaces in a single row shall be subject to the requirements of this section.
- (3) Perimeter landscaping.
- (a) The view of parking areas from all abutting streets must be visually screened by permitted buildings, fences, walls, hedges, or by a combination thereof. Each fence, wall or hedge shall be not less than two (2) feet six (6) inches in height. This screening requirement is not to be interpreted as prohibiting the installation of or provision for openings reasonably necessary for access drives and walkways.
- (b) Where a parking area is located adjacent to a residential use, screening of any area not less than ten (10) feet in width immediately adjacent to the shared property line shall be met by a combination of building, fence, wall or hedge designed in accordance with the requirements of the zoning chapter.
- (4) Interior landscaping. All parking areas subject to this subsection shall include interior landscaping according to the following standards:
- (a) Landscaped islands with a minimum width of eight (8) feet and surrounded by a minimum

six-inch curb shall be provided to direct the flow of traffic and to provide a place for shade trees to be planted.

(b) At least one (1) tree per 10 spaces shall be provided within the parking lot. No more than 12 contiguous spaces shall be permitted in a row without a landscaped island of at least five (5) feet including curbing within which the tree is to be planted.

(c) Additional landscaping, including shrubs and ground cover, may be required by the Planning Board through the site plan review process.

F. Minimum off-street parking standards.

(1) Purpose. The minimum parking standards are intended to lead to the creation of sufficient off-street parking to accommodate most of the demand for parking generated by the range of uses on a site, particularly in areas where sufficient on-street parking is not available. They are also intended to lead to the creation of sufficient parking on a site to prevent parking for nonresidential uses from encroaching into adjacent residential neighborhoods.

(2) Rules for computing minimum parking requirements.

(a) Where a fractional space results, the required number of parking spaces shall be rounded to the next whole number.

(b) In the case of mixed uses, the number of parking spaces required is equal to the sum of the requirements for the various uses computed separately, except for reductions allowed below.

G. Minimum parking required. Off-street parking spaces shall be provided in accordance with Table C, Schedule of Parking Requirements, except as modified by Subsection H or I, or as determined by the Planning Board during the site plan review.

H. Off-site facilities. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory, or elsewhere, provided that all spaces therein are located within two hundred (200) feet of the nearest lot line of the lot that the parking serves. In all cases, parking spaces shall conform to all the regulations of the district in which they are located and in no event shall such parking spaces be located in any residence district unless the use to which the spaces are accessory is permitted in such residence district. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to an easement or deed restriction, approved by the Planning Board after review by the Village Attorney, and binding upon the owner and his heirs and assigns who shall maintain the required number of spaces so long as the use to which they are accessory exist, or until such spaces are provided elsewhere in conformity with the provisions of this section.

I. Joint use. The Planning Board, in approving a site plan, may allow off-street parking and loading spaces required for structures or uses on the same or adjacent lots to be provided in a single common facility, on one or more of said lots, subject to the following:

(1) The total capacity of the common facility shall be the sum of the requirements of each individual use, except that said total capacity may be reduced by the Planning Board, provided that the applicant demonstrates to the satisfaction of the Planning Board that the capacity of such facility will meet the intent of the requirements by reason of the provision of non-

reserved parking spaces and variation in the probable time of maximum use by residents, visitors, patrons and employees among such uses. The total number of spaces that can be eliminated shall not exceed thirty-five percent (35%) of the total required parking spaces calculated for the development. In such event, hours of operation may be imposed by the Planning Board as a condition of site plan approval and may be so noted by map note and by reference to Planning Board resolution on the certificate of occupancy issued with respect to the premises. The Planning Board may require that an unimproved reserve area be set aside to meet the full requirement for parking.

- (2) As a condition of the approval of the joint use, the Planning Board shall require a legal instrument satisfactory to the Planning Board and Village Attorney assuring the continued existence and use of said parking spaces in connection with the uses and structures that they serve. Such instrument shall also guarantee that, upon termination of such use, each individual participant will provide off-street parking and loading spaces for its own use in accordance with all requirements of this Zoning chapter. Such instrument shall be recorded in the office of the County Clerk of Rockland County.
- J. Commercial vehicles in residential districts. One commercial vehicle not exceeding twenty (20) feet in length, seven (7) feet in height and six (6) feet in width, may be parked on an occupied lot in any residential district, but not within the required yard of such lot and in no case between the street line and the principal building. One commercial vehicle not exceeding twenty (20) feet in length, seven feet in height and six feet in width may be parked within a private garage in any residential district. For purposes of this section, limousines are considered commercial vehicles. A commercial vehicle shall be registered to the owner who shall be the occupant of the dwelling or a company vehicle used solely by the occupant of the dwelling.
- K. Trailers. The storage or parking and use of a trailer by any person or persons is hereby prohibited in all districts, except that:
- (1) One (1) camping trailer or motor home not exceeding thirty-five (35) feet in length may be stored on an occupied lot in any residential district provided that such trailer or motor home is not stored within a required yard or between the street line and the principal building. Said trailer or motor home shall be stored on-site only and shall not be occupied.
 - (2) Where a building permit has been issued for the construction or alteration of a building, the Code Enforcement Officer may issue a temporary permit for one (1) trailer for a period not to exceed six (6) months. Said temporary permit may be extended for an additional period of six (6) months where the Code Enforcement Officer finds that construction has been diligently pursued and that justifiable circumstances require such an extension. In no event shall the total period of the permit and extensions exceed one (1) year. Said trailer may be occupied during the term of the temporary permit and shall be situated upon the lot for which the building permit has been issued. Prior to the issuance of such a temporary permit, the Planning Board shall approve the location of said trailer on the lot. Said Board may attach to its approval whatever conditions are deemed necessary to carry out the intent of this Zoning chapter.
- L. Commercial vehicles.
- (1) The parking of more than one (1) commercial vehicle on any lot shall constitute a "contractor yard" and shall not be allowed except as otherwise permitted in this zoning chapter.

(2) Heavy construction equipment, i.e., bulldozers, loaders, cranes, and similar equipment shall not be parked or stored on any residential lot except in conjunction with construction occurring on-site. The storage of heavy construction equipment shall be deemed a contractor yard and shall not be allowed except as otherwise permitted in this zoning chapter.

(3) Tractor trailers, garbage trucks, dump trucks, tow trucks, and similar vehicles shall not be parked or stored on any residential lot or within a residential zoning district within the Village of Hillburn.

M. Off-street loading. In any district, in connection with every building, or building group or part thereof hereafter erected and having a gross floor area of 10,000 square feet or more, which is to be occupied by light industrial or commercial uses or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, off-street loading berths in accordance with the Schedule of Loading Requirements, as follows:

Schedule of Loading Requirements		
Use	Square Feet of Gross Floor Area	No. of Loading Berths
School	15,000 or more	1
Hotels and Offices	10,000 or more	1
Retail, Commercial and Miscellaneous	10,000 – 25000	1
	25,001 – 40,000	2
	40,001 – 60,000	3
	60,001 – 100,000	4
	For each additional 50,000	1 or major fraction thereof

Required loading berths shall be located in the side or rear yards.

N. Establishment and regulation of bus stops.

(1) Designation and regulation. The Village Board of Trustees shall establish designated “bus stop” locations within the Village. Bus stop location designations shall be made by resolution of the Board of Trustees and may be modified in the same manner from time-to-time.

(2) Fines. Violations shall be subject to fines, which fines shall be established by resolution of the Village Board of Trustees and may be modified in the same manner from time-to-time.

(3) Enforcement. This section shall be enforced by the Village Code Enforcement Officer.

O. Idling of engines.

(1) No person or legal entity that owns, operates or leases a motor vehicle or who has actual control of the operation of a motor vehicle, whether passenger or commercial, shall cause or permit the engine of such motor vehicle to idle during the nighttime period from 11 PM to 6 AM for more than twenty (20) consecutive minutes.

(2) Exceptions. The restrictions in this section shall not apply to:

- (a) Motor vehicles which are required or forced to remain motionless because of conditions over which the operator has no control.
- (b) Motor vehicles left idling in order to comply with federal, state or local regulations, including but not limited to regulations requiring that a specific temperature be maintained within the motor vehicle which exception shall only apply to vehicles within a nonresidential zoning district.
- (c) Motor vehicles left idling in order to maintain a temperature within the motor vehicle that is reasonably necessary for the health of the motor vehicle's driver and/or passengers.
- (d) Situations in which the motor vehicle's engine is being used to provide emergency power for an auxiliary purpose other than transportation.
- (e) Police, fire, public utility and other vehicles used in public service.

§ 250-27 and 28. Reserved.

Article IX

Nonconforming Buildings and Uses

§ 250-29. Continuance.

The lawful use of any building or lot existing on the effective date of this chapter may be continued even if the use and/or the building does not conform to the regulations of the district in which such premises are located, and such buildings or uses shall be deemed nonconforming. The effective date of this chapter shall also include the effective date of any subsequent amendment to this chapter which may cause any use or building to become a nonconforming use or building, subject to the regulations herein. Any use which is permitted in a district by a special use permit and received approval from the Planning Board shall be deemed a conforming use.

§ 250-30. Repair or alteration.

Normal maintenance and repair of, and incidental alteration of, a nonconforming building or a building occupied by a nonconforming use is permitted if it does not create any new nonconformity in the building or extend the nonconforming use. No major structural alteration, restoration or enlargement shall be made in a building occupied by a nonconforming use, except:

- A. When required by law.
- B. To adapt the building to a conforming use. A nonconforming building that is, or is to be, devoted to a conforming use may be reconstructed, structurally altered, restored or repaired, in whole or in part, provided that such action does not increase the degree of nonconformity.

§ 250-31. Damage, destruction and restoration.

- A. If a nonconforming use or building or other structure of nonconforming bulk sustains an amount of damage or destruction by any cause, which amount is officially appraised to be 55% or more of its assessed value, the building or other structure or tract of land shall thereafter be occupied and used only in conformity with the provisions of this chapter.
- B. If a nonconforming building, structure or use is damaged to an extent less than 55% of its assessed value, such building, structure or use may be restored, but not beyond the limits of the previous nonconformity or to increase the intensity or degree of the nonconforming use.

§ 250-32. Extension, enlargement or change of location.

A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the effective date of this chapter shall not be deemed the extension of a nonconforming use. A nonconforming use shall not be moved to any portion of the building, structure or land not so occupied on the effective date of this chapter.

§ 250-33. Change of use.

Any nonconforming use may be changed to a conforming use. Once changed to a conforming use, no building or land shall revert to a nonconforming use. On application to and with the approval of the Zoning Board of Appeals, a nonconforming use may be changed to any other nonconforming use which the Zoning Board of Appeals deems to be in keeping with the uses permitted in the district in which the said nonconforming use is located.

§ 250-34. Discontinuance of use.

If active and continuous operation of a nonconforming use is not carried on during a continuous period of one year for a building or six months if such use occupies land wherein there is no consequential

structure devoted to such use, the nonconforming use shall be deemed to be discontinued and the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. For purposes of this chapter, it shall make no difference whether discontinuance of operations is voluntary or involuntary.

§ 250-35. Cessation.

Notwithstanding any other provisions of this chapter, any automobile-wrecking yard or other junkyard in existence in any district at the date of enactment of this chapter shall, at the expiration of two years from such date, become a prohibited and unlawful use and shall be discontinued.

§ 250-36. Reserved.

Article X Administration

§ 250-37. Interpretation.

In their interpretation and application, the regulations of this chapter shall be considered to be the minimum provisions for the protection and promotion of public health, safety, morals, convenience, comfort, prosperity, esthetics, and other aspects of general welfare. It is hereby declared to be the legislative intent that this chapter shall always be interpreted in a way that promotes the purposes set forth in the Declaration of Purpose (Article II) and regarded as remedial to help in providing for all residents of the Village of Hillburn the benefits of orderly physical development of the community, and this chapter shall therefore be construed liberally to further its stated underlying purposes and goals.

§ 250-38. Precedence.

This chapter is not intended to supersede or nullify any statute, ordinance, regulation, easement, private agreement, covenant or other legal relationship, private or public, in effect prior to the adoption of this chapter. However, wherever the provisions of such other statute, ordinance, regulation, easement, private agreement, covenant or other legal relationship, private or public, are inconsistent with any provisions of this chapter, then those provisions which are the most restrictive or impose higher standards shall take precedence.

§ 250-39. Prior approvals.

This chapter is not intended to abrogate or annul any building permits or certificates of occupancy issued before the effective date of this chapter, except as provided in § 250-41E below.

§ 250-40. Enforcement.

- A. Enforcing officer. This chapter shall be enforced by the Code Enforcement Officer who shall be appointed by the Board of Trustees of the Village of Hillburn. All applications for building permits shall be in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, as set forth in Chapter 80, Building Construction and Fire Prevention. No building permit or certificate of occupancy shall be issued by the Code Enforcement Officer for any purpose except in compliance with the provisions of this chapter, including any conditions attached to the approval of a variance, special use permit, or site plan and in compliance with all other statutes, laws, ordinances, rules and regulations applicable to the affected property.
- B. Notice of violation. The Code Enforcement Officer is authorized to inspect or investigate, at his discretion, any building, structure, use or premises in the Village of Hillburn with regard to provisions of this chapter and to issue a written order for the proper remedying or compliance, within a reasonable time, of any condition found to be in violation thereof.
- C. Investigation. If the Code Enforcement Officer shall find that any of the provisions of this chapter are being violated, or when any purported violation shall be brought to his attention, it shall be mandatory upon the Code Enforcement Officer to make an investigation. In the event that the Code Enforcement Officer determines that a violation of this chapter does in fact exist, it shall be mandatory upon the Code Enforcement Officer to serve written notice of said violation by regular or certified mail (return receipt requested) upon the record owner indicating the nature of the violation and ordering the necessary corrective action, and copies of such notice shall be delivered to the Village Clerk. The Code Enforcement Officer shall order the discontinuance of: 1) any illegal use of land, buildings, or structures; removal of illegal buildings, or structures, or additions, alterations, or structural changes; or 2) any illegal work in progress. In the event that the owner shall fail to abate said violation within 10 days of the service of such notice, it shall

then be mandatory upon the Code Enforcement Officer to report such fact in writing to the Village Clerk for action by the Village Board.

D. Stop Work Orders:

- (1) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section to halt:
 - (a) any work that is contrary to any applicable provision of this Chapter or the New York State Uniform Building Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work; or
 - (b) any work that is being conducted in a dangerous or unsafe manner without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work; or
 - (c) any work for which a Building Permit, Site Plan, Special Use Permit or variance is required which is being performed without the required Building Permit, Site Plan, Special Use Permit or variance or under a Building Permit, Site Plan, Special Use Permit or variance that has become invalid, has expired, or has been suspended or revoked.
 - (d) Any use or occupancy of property in violation of any applicable state law, regulation, or local law.
- (2) Content of Stop Work Orders. Stop Work Orders shall be:
 - (a) in writing;
 - (b) be dated and signed by the Code Enforcement Officer;
 - (c) state the reason or reasons for issuance; and
 - (d) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- (3) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order. The Code Enforcement Officer shall post a copy of the stop work order in a conspicuous location on the property affected by the Stop Work Order.
- (4) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.
- (5) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (1) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of,

the right and authority to pursue any other remedy or impose any other penalty under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

§ 250-41. Building permit.

No building or structure or sign in any district shall be erected, reconstructed, restored, enlarged, relocated, altered, used or moved, in whole or in part, to another site without a building permit. A building permit shall be duly issued upon application to the Code Enforcement Officer and upon payment of the required fee in accordance with the schedule of fees of the Village of Hillburn. A building permit shall be issued only if the proposed construction or use is in full conformity with all provisions of this chapter and all other applicable regulations of the Village of Hillburn, the New York State Uniform Fire Prevention and Building Code and any other applicable county or state requirements. Any such permit issued in violation of the provisions of this chapter shall be null and void and of no effect without the necessity for any proceedings for revocation or nullification thereof, and any work undertaken or use established pursuant to any such permit shall be unlawful.

- A. Required information. Every application for a building permit shall contain the following information and be accompanied by a plot plan in duplicate drawn to scale and signed by the person responsible for such drawing. If no such plot plan is available, a survey prepared by a licensed engineer or land surveyor is required. In the case of accessory buildings, the Code Enforcement Officer may waive such of the requirements set forth in Subsection **A(1)** through **(5)** below as may be deemed to be superfluous.
- (1) The actual shape, dimensions, radii, angles, and area of the lot on which the building is proposed to be erected or, if an existing building, of the lot on which it is situated.
 - (2) The exact size and locations on the lot of the building or buildings proposed to be erected or altered and of all other existing buildings on the same lot, if any.
 - (3) The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.
 - (4) The existing and intended use of all buildings, existing or proposed, the use of land, and the number of dwelling units, if any, the building is designed to accommodate.
 - (5) Such other information with regard to the building, the lot, or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
- B. Site plan approval. No building permit shall be issued for any building that is subject to site plan or special use permit approval by the Planning Board, except in conformity with the approval issued by the Planning Board. No permit shall be issued for a building that is permitted subject to a variance granted by the Zoning Board of Appeals except in accordance with all conditions which may have been prescribed by the Zoning Board of Appeals.
- C. Code Enforcement Officer review. The Code Enforcement Officer shall, within 30 days after the filing of a complete and properly prepared application incorporating all required approvals, including site plan, special use permit and/or variances, either issue or deny a building permit. If a permit is denied, the Code Enforcement Officer shall state the reason for such denial on two copies of the application and shall return one copy to the applicant.

- D. Expiration of permit. If any construction, alteration, enlargement or other work authorized under a building permit is not begun within 120 days from the date of its issuance, such permit shall expire. Otherwise, building permits shall expire one (1) year from the date of issuance. The Code Enforcement Officer may authorize in writing not more than two consecutive 120-day extensions because of the occurrence of conditions unforeseen at the time of issuance of such permit.
- E. Zoning amendment. If this Zoning chapter is amended after issuance of a building permit in such a way as to make a proposed use nonconforming as to use or bulk and no substantial work has been undertaken on the structure or foundations, the building permit shall be invalid. However, if all footings have been installed before the effective date of such zoning amendment, and if construction is continuing at the time, the proposed use may be completed as authorized in the building permit, subject to expiration of such permit.

§ 250-42. Certificate of occupancy or use.

- A. Certificate of occupancy or use needed. A certificate of occupancy or use shall be obtained from the Code Enforcement Officer prior to:
 - (1) Occupancy and use of a building after it is erected, reconstructed, restored, enlarged, relocated, altered, used or moved, in whole or in part.
 - (2) A change in the use of an existing building or of a part thereof.
 - (3) Occupancy and use of formerly vacant land or change in the use of land.
- B. Application for certificate of occupancy or use. Every application for a certificate of occupancy or use shall be accompanied by a fee in an amount established by the Board of Trustees and shall be made in duplicate upon forms provided by the Code Enforcement Officer.
- C. Reference to building permit. Every such application for a certificate of occupancy or use shall refer to the building permit issued or, if none was required, shall give the additional data required in an application for a building permit.
- D. Certificate of occupancy or use issuance required before occupancy. No occupancy, use or change of use shall take place until a certificate of occupancy or use therefor has been issued by the Code Enforcement Officer. No certificate of occupancy or use shall be issued which would be in violation of any provision of this chapter, except upon a written order of the Zoning Board of Appeals. No certificate of occupancy or use shall be issued unless prior site plan, variance or special use permit approvals, if any, have been granted by the appropriate agency in accordance with the provisions of this chapter. No certificate of occupancy or use shall be issued unless all taxes and assessments on the property have been paid, and in the case of subdivisions, until public improvements have been installed to the satisfaction of the Village Engineer.
- E. Nonissuance. In case the Code Enforcement Officer shall decline to issue a certificate of occupancy or use, his reasons for so doing shall be stated on the application, and one copy shall be returned to the applicant.
- F. Filing. A duplicate copy of every certificate of occupancy or use issued hereafter shall be filed with the Village Clerk, and a record of all certificates of occupancy shall be kept in the office of the Code Enforcement Officer.

§ 250-43. Temporary certificate of occupancy or use.

- A. Authority. The Code Enforcement Officer may issue a temporary certificate of occupancy or use for a period not to exceed 90 days during the completion of any alterations or for a part of a partially completed building, or for a nonbuilding use, and may extend such period by not more than two consecutive thirty-day periods, provided that the Code Enforcement Officer finds:
- (1) That issuance of a certificate of occupancy or use prior to completion of the said alterations would not result in any safety or other hazard to the occupants of the building; and
 - (2) That work on the building prior to the date of application for a temporary certificate of occupancy or use has been prosecuted diligently.
- B. Conditions. A temporary certificate of occupancy or use shall be subject to specific terms and conditions where necessary to assure the safety of the public and the occupants of the building and of adjacent buildings and land and shall include a timetable for achieving full compliance with all applicable requirements and the completion of all required improvements, if any. Upon expiration of the temporary certificate of occupancy or use, the use shall be terminated unless a permanent certificate of occupancy or use shall have been issued prior to the date of such expiration.
- C. Rights of parties. A temporary certificate of occupancy or use shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the Village with respect to the use or occupancy of the land or building or any other matter covered by this chapter.

§ 250-44. Health Department approval.

Whenever a request for a building permit provides for the erection, installation, modification, enlargement or repair of a septic or sewage treatment facility, no building permit shall be issued unless the applicant shall have first obtained the approval of the Rockland County Health Department.

§ 250-45. Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any such building or structure or land is used in violation of this chapter, the enforcing officer or other proper Village authority, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful act, condition or use, in order to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. All issues in any action or proceeding for any of the purposes herein stated shall have preference over all other civil actions and proceedings.

§ 250-46. Violations.

- A. Liability for violations. Any person or corporation, whether as owner, lessee, architect, contractor 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 any rule or regulation made under the authority conferred by this chapter; or who shall erect, construct, alter, enlarge, convert or move any building or structure or any part thereof without a building permit or in violation of any statement or plans submitted and approved under the provisions of this chapter; or who shall use any building, structure or land in violation of this chapter or any rule or regulation made under the authority conferred by this chapter without or in violation of the provisions of any building permit, change of use permit, or certificate of occupancy, where such a permit is required by this chapter, or in violation of any conditions attached to the approval of a site plan or special use permit by the Planning Board or a variance by the Zoning Board of Appeals, and who fails to abate said violation within 30 days after

written notice has been served upon him either by mail or personal service, shall be liable to a penalty of \$250 for the first offense; \$500 for the second offense within 2 years; and \$ 1,000 for the third offense within 2 years and in addition shall pay all the costs and expenses incurred by the Village in determining such violation. Each calendar day that a violation continues shall constitute a separate offense.

- B. Legal action. In case any building or structure is erected, constructed, reconditioned, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the Trustees of the Village of Hillburn or the Code Enforcement Officer or any other official of the Village, in addition to other remedies, may institute any appropriate action or proceeding through the Village Attorney in order to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.

§ 250-47. Relief from decisions.

Any person or persons aggrieved or allegedly aggrieved by a decision, determination, act or refusal to act of a body or officer exercising judicial, quasi-judicial, administrative or corporate functions relating to this chapter may petition for relief to a proper court of law in accordance with the provisions of Article 78 of the Civil Practice Act of the State of New York.

Article XI Planning Board

§ 250-48. Establishment.

Pursuant to § 7-718 of the Village Law of the State of New York there shall be a Planning Board consisting of five members, each appointed for a term of five years by the Board of Trustees. The Chairperson shall be designated by the Board of Trustees, or, in the absence of such designation, may be selected by the Planning Board. The Planning Board shall select a Secretary and may pay for the services of said Secretary or experts, but not in an amount exceeding the budgetary appropriation for the Planning Board made by the Board of Trustees. The Planning Board already established shall continue to function under the provisions of this chapter, and the members thereof may continue in office until their respective terms expire.

§ 250-49. Powers and duties.

The Planning Board shall be empowered to:

- A. Review site plan applications pursuant to Article **XII** of this chapter.
- B. Review subdivision applications pursuant to the subdivision regulations of the Village of Hillburn.
- C. Review special use permit applications pursuant to this article.
- D. Recommend, on its own motion or by referral from the Board of Trustees, matters relating to proposed amendments to the Hillburn Zoning chapter pursuant to Article XV of this chapter.
- E. Make investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the Village.

§ 250-50. Procedure; public hearings.

- A. Procedure. The Planning Board shall determine its own rules of conduct and procedure consistent with the applicable provisions of the Village Law of the State of New York and this chapter.
- B. Public hearing notice. For every public hearing that is required for any action set forth in this Zoning Chapter, the following procedures shall apply with regard to public notices:
 - (1) The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days prior to the hearing.
 - (2) The Planning Board shall cause public notice of said hearing to be published in a newspaper of general circulation in the Village at least five (5) days prior to the date thereof.
 - (3) The Applicant shall transmit a notice of the public hearing via certified mail to the record owner of each property within 200 feet of the property for which the public hearing is being heard.
 - (4) Notice of the public hearing shall be sent via first class mail no less than seven (7) calendar days prior to the date on which the public hearing is opened.
 - (5) The Applicant shall provide a certificate of mailing prior to the public hearing being opened.
 - (6) The cost of all mailings and publishing of the notice shall be borne by the Applicant.

§ 250-51. Referral to Rockland County Department of Planning.

- A. Matters to be referred. In accordance with § 239 et seq. of the General Municipal Law of the State of New York, any application for subdivision or site plan approval or a special use permit for real property lying within a distance of 500 feet of the following shall be referred to the Rockland County Department of Planning:
- (1) The boundary of any city, village or town.
 - (2) The boundary of any existing or proposed county or state park or other recreation area.
 - (3) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
 - (4) The existing or proposed right-of-way of any stream or drainage channel owned by Rockland County or for which the County has established channel lines.
 - (5) The existing or proposed boundary of any County- or state-owned land in which a public building or institution is situated.
 - (6) The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the New York State Agriculture and Markets law, except this subparagraph shall not apply to the granting of area variances.
- B. Rockland County Department of Planning recommendation. Failure of the Rockland County Department of Planning to report its recommendations within 30 days after receipt of a full statement of such referred material or such longer period as may have been agreed upon by it and the Village Planning Board shall be construed as approval.
- C. Effect of negative report. If the Rockland County Department of Planning disapproves the proposed subdivision, site plan or special use permit, or recommends modification thereof, the proposal shall not become effective except by a vote of a majority plus one of all members of the Planning Board and after adoption by such Board of a resolution fully setting forth the reasons for such contrary action.
- D. Report filing. A report of the decisions of the Planning Board shall be filed with the Rockland County Department of Planning if referral was initially required.

§ 250-52. Special use permits.

- A. Objectives. On application and after public notice and hearing, the Planning Board may authorize, by resolution, the issuance in any district of a special use permit exclusively for those uses which require such a permit under this section. In authorizing the issuance of a special use permit, the Board shall take into consideration the public health, safety and welfare and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives:
- (1) That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
 - (2) That, in its proposed location, the proposed use is of such size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it

is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning district classification of such properties or the intent with respect thereto of the officially adopted Comprehensive Plan.

- (3) That pedestrian and vehicular traffic to and from the use, and the assembly of persons in connection therewith, will not be hazardous or inconvenient or incongruous with the area or conflict with the normal traffic in the neighborhood.
- (4) That the location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of screening and landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or diminish the value thereof.
- (5) That operations in connection with any special use permit use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights than would be the operation of any permitted use and may establish limitations on same, including hours of operation, to mitigate any potential adverse impacts.
- (6) All special uses shall comply with the landscaping, lighting, parking, performance and other standards set forth in this Zoning chapter, and the individual special use standards set forth in Section 250-53 of this Zoning chapter.

B. Application and procedures.

- (1) Every application for a special use permit shall require site plan approval in accordance with Article XII of this Zoning chapter. Every application for a special use permit shall be submitted in ten (10) copies and shall contain all the data required in connection with an application for site plan approval, unless, following a meeting in person with the Planning Board or a duly authorized representative thereof, some of the required information is deemed by the said Board to be unnecessary.
- (2) Area variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to section 7-712-b of the New York State Village Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.
- (3) Conditions attached to the issuance of special use permits. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by the Code Enforcement Officer. Said conditions shall be met within one (1) year of issuance of the special permit, or the permit shall become null and void.
- (4) Waiver of requirements. The Planning Board, when reasonable, may waive any requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit.

- (5) Public hearing and decision. The Planning Board shall conduct a public hearing within sixty-two (62) days from the day a complete application is received on any matter referred to it under this section. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. Failure by the Planning Board to render a determination within sixty-two days shall be deemed a denial. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Planning Board on the application after the holding of the public hearing shall be filed in the office of the Village Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.
- (6) Compliance with SEQRA. The Planning Board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

C. Decision of the Planning Board.

- (1) In authorizing the issuance of a special use permit it shall be the duty of the Planning Board to attach such conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the general objectives of this chapter.
 - (2) The Board may require, as a condition of the issuance of any special use permit, that it be periodically renewed or may issue a special use permit for a specific period of time, subject to adequate guarantee that the use covered will be terminated at the end of the period specified or such extension as may be granted by said Board. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. In such cases, a period of 60 days shall be granted to the applicant to achieve compliance prior to the revocation of the said permit.
 - (3) Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:
 - (a) The provision in this chapter under which such permit was issued is still in effect.
 - (b) Such permit was issued in conformity with the provisions of this chapter.
 - (c) Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted and shall expire if the special use shall cease for more than six months for any reason.
 - (d) All applicable provisions of this chapter not otherwise varied by the special use permit approval are adhered to.
 - (e) The use continues to comply with all conditions and safeguards prescribed by the Board.
- D. Failure to meet all conditions imposed by the Planning Board shall render the special use permit void.
- E. No permit shall be issued for a special use for a property where there is an existing violation of this Zoning chapter.

§ 250-53. Special use permit requirements.

In addition to the general objectives of § 250-52 above, the following requirements shall apply for individual special uses:

A. Animal sanctuary.

- (1) As per Article IV, definitions, an animal sanctuary may include those species which are indigenous to the northeast, as well as any avian species. The animal sanctuary shall be accredited by the American Sanctuary Association or other similar accrediting body.
- (2) Animal sanctuaries are permitted in the R-60 zoning district only and on lots of no less than three (3) acres.
- (3) The Planning Board may require that the facility, especially animal holdings, be enclosed securely by fencing or other means, taking into consideration the types of animals to be housed. The Planning Board shall determine the appropriate means of enclosure.
- (4) The use shall maintain its accreditation with the American Sanctuary Association throughout the use's operation. A facility which loses its accreditation shall be deemed to be in violation of any special use permit granted to it.
- (5) Security lighting may be provided at the facility. Lighting shall be sufficient to secure the site and shall be designed with full cutoff and other design measures which eliminate light spillover or impacts to the night sky and shall meet the requirements of this zoning chapter.
- (6) The use shall secure all applicable permits and approvals from county and state health and environmental agencies as a condition of the special use.
- (7) Any barn, shed, corral or animal enclosure shall be located no closer than 50 feet from any side or rear lot line and 100 feet from any street line.
- (8) The Planning Board shall establish as part of the special use the types of species and number of animals that shall be allowed within the sanctuary based on the specific location of the facility, its proximity to adjoining residential uses, and the operational characteristics of the facility including noise generated by the animals, best practices for housing said species and other health and safety considerations.
- (9) The storage of manure or other dust-or odor-producing substances shall be adequately screened to the extent practicable from adjacent residential properties and said storage shall be located no less than 100 feet from any lot line, stream or other water body or well providing a source of potable water and the nearest neighboring residential properties.
- (10) The hosting of visiting groups such as field trips or agritourism-related activities at an animal sanctuary may be allowed as a function of the use if approved by the Planning Board. Among other considerations, the animal sanctuary shall demonstrate the availability and adequacy of bathrooms, food preparation, eating and other facilities to accommodate visitors, and it shall otherwise adhere to all applicable Village, County and State Laws.
- (11) During review the applicant shall provide the Planning Board with hours of operation for visiting groups or tours.

(12) Overnight guest stays of no more than two consecutive nights are permitted provided the guest(s) is involved in some capacity in the care and husbandry of animals or is visiting the site for educational purposes.

B. Assisted living facility (ALR).

- (1) Within the ALR, certain related ancillary facilities may be permitted, either in a separate building or in combination with dwelling units, such as dining facilities, meeting rooms, multipurpose rooms, lounges, game rooms, workshops, medical infirmaries, health and exercise facilities, convenience retail facilities, automated banking facilities, personal care facilities etc., only to the extent that they meet the needs of the occupants of the ALR and their guests. Such facilities shall be subordinate to the residential character of the development with no outside advertising. The Planning Board may limit hours of operation, percent of floor area, or other elements. The applicant shall submit a floor plan of each building for review, and the Board having jurisdiction over the special permit application shall review the overall internal layout and allocation of space for support activities.
- (2) The gross density of the site shall be determined by the board having jurisdiction over the special permit application, in order to preserve maximum flexibility for sound planning and environmental considerations. However, in no event shall the gross density of the site exceed 12 units per acre and no ALR shall have more than 100 rooms. For purposes of determining density pursuant to this section. Each two beds in the ALR shall be equivalent to a unit regardless of whether they are in the same room or separate rooms.
- (3) The minimum distance between a building used as an ALR and any other building shall be 30 feet, or a distance equal to the height of the taller of the two buildings measured on opposing faces, whichever is greater.
- (4) There shall be provided a safe and convenient system of drives, service access roads and walks with due consideration given in planning such facilities to such items as handrails and ramps. Such facilities shall be adequately lighted and said lighting shall not be directed on adjacent streets or properties.
- (5) The board shall determine the parking requirements for the ALR.
- (6) An ALR shall obtain a license from any state agency authorized to license such facility.

C. Automotive garage.

- (1) The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard.
- (2) Fuel pumps are not permitted in association with an automotive garage.
- (3) All repairs, body and fender work, and maintenance shall be done within a completely enclosed building. The outdoor storage of goods, supplies, parts, materials, or equipment shall occur outside any required yard and shall be screened from any public right-of-way or shall otherwise be stored in an enclosed structure. Outside storage areas shall not exceed 25 percent of the total lot area.

- (4) Entrance and exit driveways shall have a maximum width of 24 feet and shall be located not nearer than 10 feet from any property lines and shall be so laid out as to avoid the necessity of any vehicle backing out across any public right-of-way or portion thereof.
- (5) There shall be no exterior display of articles, parts or supplies for sale.
- (6) There shall be no exterior overnight storage of vehicles, except for a day at a time or while awaiting arrival of parts.
- (7) No work shall be performed outside except incidental or emergency repairs.
- (8) The facility shall be required to meet the buffer requirements applicable to nonresidential uses adjoining a residential district or use set forth in this zoning chapter.
- (9) Any opening in the roof, side or rear walls shall be located no less than 15 feet from any lot line.
- (10) Greases, solvents, oils, or other fluids shall be stored on site and disposed of in compliance with all applicable local, county, state and federal regulations and shall not be disposed of directly or indirectly into the ground or waters of the Village of Hillburn.
- (11) Inoperable vehicles shall be stored on the site for no longer than thirty (30) days. Inoperable vehicles shall be registered and road worthy. The storage of inoperable vehicles for longer than thirty days shall be deemed to be a junkyard as defined in this Zoning Chapter and the use shall be deemed a prohibited use.
- (12) The Planning Board shall evaluate impacts related to noise, traffic, hours of operation and shall minimize negative impacts on adjacent uses. The Planning Board may establish hours of operation to limit any potential adverse noise impacts.
- (13) The required front yard shall be landscaped to the satisfaction of the Planning Board in accordance with the landscaping standards of this zoning chapter.

D. Building contractor.

- (1) The outdoor storage of goods, supplies, parts, materials, or equipment must be located in the rear yard only and screened from adjacent uses or shall otherwise be stored in an enclosed structure. No outdoor storage shall be permitted in the required rear yard unless said storage adjoins a non-residential zoning district.
- (2) Outside storage areas shall not exceed 25 percent of the total lot area. The Planning Board shall require a property screen where the outdoor storage is visible from an adjoining residence, residential district, or a public right-of-way.
- (3) Parking for contractor vehicles and equipment shall not be permitted in a front yard, or required side or rear yard. Parking areas shall be screened completely from view of the public road and adjacent residential uses.
- (4) The Planning Board shall evaluate impacts related to noise, traffic, hours of operation, and lighting requirements and shall minimize negative impacts on adjacent uses.

- (5) Stockpiling of outdoor materials shall not exceed fifteen (15) feet in height, as measured from the existing ground surface elevation.
- (6) All materials stored on site shall be disclosed to the Planning Board, and Material Data Safety Sheets (MDSS) shall be submitted to ensure that hazardous substances are not stored in quantities to be a safety hazard to adjoining properties, the neighborhood, or Village as a whole. The Planning Board is authorized to set limits on the quantities and types of materials stored on site to protect the health, safety and welfare of the Village.

E. Bus depot.

- (1) Driveway access shall solely be from NYS Route 17 or NYS Route 59. The Planning Board, in its discretion, may approve a park and ride facility in connection with the terminal. Public restrooms are not permitted.
- (2) The outdoor storage of buses is permitted, provided it does not exceed fifty percent of the maximum allowable lot coverage. Storage of buses shall occur in a side or rear yard and not in the front yard. Bus storage shall be screened from view with a solid fence and landscaping no less than 35 feet in width. Buses shall not be permitted to idle for more than fifteen (15) minutes, unless the Planning Board determines said idling will not have a detrimental air quality impact on the nearest sensitive receptors.
- (3) Bus depots are subject to architectural review and approval.
- (4) Adequate off-street parking for employees shall be provided.
- (5) The facility shall be designed and operated so that bus operating noise is not audible beyond the property line. A noise study shall be submitted and the Planning Board shall assess whether the bus terminal will have a significant adverse impact on ambient noise levels associated with any sensitive noise receptors.
- (6) No fuel pumps shall be located within 100 feet of any property line. All fuel, oil, gasoline or similar substances shall be stored and installed and maintained in accordance with the standards of the National Board of Fire Underwriters.
- (7) All parking areas for operating buses shall be paved, curbed and drained. Such areas shall be no less than 100 feet from any residence district boundary.
- (8) Adequate space shall be provided on the site for all the elements to be incorporated into the terminal, including provision for off-street parking for employees, the maximum number of idle buses and off-street loading and unloading. If the bus terminal incorporates passenger loading or unloading areas, said activities shall occur wholly on-site. Adequate access and egress with appropriate turning radiuses to the site shall be provided as well as adequate queuing and turnaround space on the site so that at no time is street traffic disrupted or blocked by vehicles entering or leaving the site. Queuing of buses on the street or shoulder waiting to enter the terminal shall not be permitted.
- (9) All dismantled buses, buses undergoing repair, equipment, parts and accessories thereof shall be stored within a building. No outdoor storage is permitted, except for intact, road worthy, functioning, operable buses.

F. Commercial recreation, indoor.

- (1) A floor plan shall be submitted showing the dimensions of the various spaces within the building, the proposed location of facilities, aisles, exits, counter areas, dressing and exercise rooms, sanitary facilities, food service areas and similar elements.
- (2) Facilities shall be so located as not to impair ingress or egress to the premises and so as not to interfere with the circulation and movement of customers.
- (3) No accessory outdoor recreation facilities shall be permitted, unless waived by the Planning Board.

G. Concrete mixing plant.

- (1) A concrete mixing plant refers only to a “ready-mix” facility which stores stone, sand, cementitious materials, and admixtures on site, and which combines, sells and delivers said “ready-mix” concrete through the use of a concrete mixing truck.
- (2) Any dust producing materials shall be stored indoors. The Planning Board may require that the facility be watered down to maintain a dustless environment.
- (3) Trucks and equipment required for the operation of the facility shall not be stored closer than ten (10) feet from the required front yard and shall be sheltered indoors or contained within a solid fence at least six (6) feet in height.
- (4) Any office space shall be located facing the front yard, in a room or rooms separate from the concrete mixing facility. A separate and dedicated parking area shall be provided for customers.

H. Craft workshop; art studio.

- (1) The following shall apply to both uses:
 - (a) The sale of goods produced on site is permitted in a retail environment provided that the space dedicated to retail sales is 35% or less of the size of gross floor area, and an employee is within the retail area during open hours. The Planning Board shall determine whether to permit retail space which shall be based upon the potential use’s impact upon the health, safety and welfare of customers and adjoining uses and properties.
 - (b) The application for approval of a craft workshop/studio or art studio shall detail hours of operation, including the hosting of classes or use of retail space, and all equipment which is intended for use in the production of the craft.
- (2) Art studio. The Planning Board shall determine that the activity fits within the definition and shall not impact adjoining residential uses or properties within the Village Center. No hazardous materials may be used in conjunction with an art studio.

I. Cultural or performing arts center.

- (1) The arrangement, character, extent, width, grade and location of all streets and internal driveways shall be considered in relation to existing and planned streets, topography, and

public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by said street, whether private or public. A pedestrian system shall be provided to link uses within the overall site and to parking areas.

- (2) The buildings and structures shall be compatible with the Village character exhibited within the surrounding environs, the character of the community and the natural surroundings. The Planning Board shall review and approve the architectural style of the buildings and structures, taking into consideration the objectives set forth herein.
- (3) A safety management plan shall be submitted that demonstrates that adequate emergency access is provided to the site. Police, fire, ambulance and other agencies that are required to service the proposed development shall be provided with a copy of the application for review and comment, and the Planning Board shall take said comments into consideration in its deliberations. The Village Board shall approve the safety management plan, and a copy thereof in final form shall be filed with the Village Clerk.
- (4) In order to minimize visual and noise impacts on adjoining parcels, no building, parking area or road shall be permitted within 100 feet of any property line. A combination of fencing, natural, undisturbed areas, and/or supplemental plantings or landscaping shall be provided to create a separation between surrounding existing uses and the proposed development.
- (5) A traffic study shall be submitted in conjunction with the special use permit application. The applicant shall consult with the Planning Board regarding the scope of the traffic analysis prior to the study being conducted. The Planning Board and/or its designated representative shall evaluate the use's impact on the surrounding road network and may limit the size of the facility to ensure that traffic does not negatively impact the road network within the Village.
- (6) The number of off-street parking spaces required to serve the development shall be calculated utilizing the applicable parking generation rates set forth in the most recent edition of the Institute of Traffic Engineers' publication, "*Parking Generation*." Parking areas shall be broken up and amply landscaped to avoid the appearance of significant expanses of impervious surfaces. Truck-loading facilities shall be provided as required in Article VIII of this zoning chapter.
- (7) All areas of the site shall be amply landscaped by preserving existing vegetation, or by installing a combination of decorative and native plant materials.
- (8) A lighting plan and landscaping plan shall be submitted in accordance with this zoning chapter.
- (9) The applicant shall furnish a master signage plan illustrating the location and design of on-site signs, which shall be approved as part of the site plan. Signs shall be uniform and attractive in appearance. The Planning Board is authorized to modify the sign standards to accommodate the master signage plan, provided that the signage is part of a consistent theme that blends into the natural environment and the proposed architecture of the facility, makes maximum use of ground signs as contrasted with pole signs, mostly utilizes natural materials such as wood and stone for sign construction, and employs landscaping of such signs to enhance appearances. The Planning Board may waive the requirements set forth in Article VII to achieve the design objectives set forth herein for signs.
- (10) The application shall include an overall development plan for consideration by the Planning Board. The overall development plan may be prepared at conceptual level but, at a minimum,

must depict those uses proposed for development or that may reasonably be anticipated for development by the applicant, including, but not limited to, pavilions, amphitheaters, concert halls and other musical and performing arts performance areas, together with major administrative, food service, interpretive, lodging, parking, residential structures and seating facilities to accommodate performing arts patrons. The overall development plan must also depict off-site parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses. The overall development plan must also demonstrate on a conceptual level that the development design standards listed above will be met, and the extent to which any modifications will be necessary. The plan need not encompass all the details required for a site plan but shall set forth in reasonable detail the anticipated locations within the development and sizes of all major improvements anticipated such that the Planning Board can evaluate the overall plan for environmental, traffic and other impacts on the community with a view toward attaching any conditions of approval which must be met at the time a detailed site plan is submitted for approval for any section of the development.

- (11) Concurrent with its overall development plan submission, an applicant may also submit a detailed site plan application for one or more phases of its overall development. That site plan must comply with the requirements of this section and of Article XII of this zoning chapter.

J. Conference center.

- (1) The building shall be compatible with the Village character and its natural surroundings. The Planning Board shall review and approve the architectural style of the building and structures, taking into consideration the objective set forth herein.
- (2) A traffic study shall be submitted in conjunction with the special use permit application. The applicant shall consult with the Planning Board regarding the scope of the traffic analysis prior to the study being conducted. The Planning Board and/or its designated representative shall evaluate the use's impact on the surrounding road network and may limit the size of the facility to ensure that traffic does not negatively impact the Village road network.
- (3) Restaurants and dining rooms are permitted accessory to the conference center and shall be limited to use by conference center attendees. Said facilities shall not constitute more than twenty percent (20%) of the total gross floor area of the conference center building.
- (4) All parking areas shall be set back no less than fifty (50) feet to any property line, or further if required by the parking standards or buffer requirements.
- (5) All areas of the site shall be amply landscaped by preserving existing vegetation, or by installing a combination of decorative and native plant materials.
- (6) A lighting plan and landscaping plan shall be submitted in accordance with this zoning chapter.

K. Delicatessen.

- (1) The total gross floor area dedicated to a delicatessen, including storage areas and other accessory spaces, shall not exceed 1,250 square feet.

L. Reserved.

M. Drycleaning depot.

- (1) The drycleaning depot is allowed to receive or distribute clothing that has been drycleaned in a location other than within the Village of Hillburn.
- (2) Tailoring services shall be allowed accessory to a drycleaning establishment.
- (3) The application shall conform to all other applicable state, county, and local regulations applicable to said use.

N. Farm market.

- (1) At least two-thirds of the total amount of the annual retail sale of agricultural, horticultural, floricultural, vegetable and fruit products, soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides and other agricultural products shall be grown, raised or produced on bona fide farms in New York State or the State of New Jersey. The purpose of this provision is ensure that farm markets are limited primarily to the sale of locally grown products. A conventional grocery store or supermarket shall not be deemed a "farm market".
- (2) One-half of the gross floor area of the market shall be dedicated to vegetable and fruit produce in order for the use to qualify as a farm market, and not a retail grocery store or other retail store. The Planning Board may permit the outdoor display of produce.
- (3) The farm market may also sell food prepared on premises for off-site consumption, utilizing agricultural and farm products sold at the farm market.
- (4) A farm market may be operated on a year-round basis and may contain bathrooms and/or an area for food preparation occupying no more than 10% of the gross floor area of the market.
- (5) A floor plan shall be provided demonstrating compliance with the floor area requirements.

O. Fire, police, ambulance and similar municipal buildings.

- (1) Fire, police, and ambulance buildings, or similar municipal buildings shall be situated on a site which will minimize the impact of noise to the surrounding residents.
- (2) The height and bulk limitations contained in §250-12 of the zoning chapter shall not apply to any municipal building, structure or use in connection with a municipal governmental function where there exists an engineering reason related to the particular site, building and use proposed in respect of which the opinion, in writing, of an independent engineer shall have been obtained to the effect that the proposed building, structure or use will better serve its municipal function if it is carried out in a manner which is not in strict conformity with such height and bulk limitations; provided, however, that notwithstanding the nonapplicability of the height and bulk limitations in the circumstances set forth, any building, structure or use to which this section applies shall be first authorized by resolution of the Board of Trustees, and prior to receiving special use permit approval from the Planning Board.

P. Health fitness facility.

- (1) For the purposes of this section, a "health fitness facility" may include one or more of the following activities, provided that all are conducted by the same business entity and within the same indoor premises:
 - (a) Squash and racquetball courts;
 - (b) Group fitness programs, yoga, pilates, spinning, or other similar exercise activity;
 - (c) Personal training;
 - (d) Health, fitness and dance-related educational programs;
 - (e) Offices for physical therapy and rehabilitation, including offices for qualified professionals, provided that all persons receiving such services are patrons of the health and fitness facility, and further provided that such offices do not exceed in the aggregate 10% of the floor area of the facility;
 - (f) Child sitting services for members only while participating in activities on the premises, and not for the general public;
 - (g) Coffee, juice and/or health food bar serving only nonalcoholic beverages and food, and serving only to patrons participating in activities on the premises and not to the general public. Cooking shall not be permitted at the premises. All food sold at such facility shall be pre-prepared and may be heated or warmed on the premises prior to sale;
 - (h) Minor retail sales of sporting goods and apparel to patrons participating in activities on the premises, but not to the general public, provided that the floor area of such facilities in the aggregate shall not exceed 10% of the floor area of the entire health and fitness facility.
- (2) It shall be a specific and express condition of any such permit issued for a health and fitness facility that the facility be constructed and operated in compliance with all applicable New York licensing requirements.
- (3) Where fitness machinery is used, a floor plan and layout shall be provided. Trained and licensed staff shall be available during operating hours to assist members or customers and to maintain a safe environment. The proper use of each type of machinery shall be illustrated through visible signage.

Q. Home occupation, major.

- (1) There shall be no exterior indication of the home occupation or any variation from the residential appearance of the principal building.
- (2) The home occupation shall be carried on wholly on the ground floor or basement of the principal building and shall not utilize more than 1/2 the area of the ground or street floor or the basement of the original building.
- (3) There shall be no more than one person outside the resident family employed in the home

occupation.

- (4) There shall be no exterior sign or display except as permitted in Article VII.
- (5) There shall be no exterior storage of materials or equipment.
- (6) There shall be no retail sales conducted on the premises except nothing herein shall limit the sale of goods via online services.
- (7) There shall be no regular use of commercial vehicles for delivery and pickup of materials and products to and from the premises. Deliveries exceeding four per week shall be deemed "regular". The owner shall arrange to receive or deliver goods from other locations, e.g., the U.S. Post Office, so as to limit commercial deliveries within the neighborhood.

R. Hotel, resort.

- (1) One or more principal building(s) are permitted on a lot.
- (2) Retail, office, or personal-service business uses are permitted and shall clearly be accessory and incidental to the hotel or resort, shall be conducted in a principal building within which the guest sleeping rooms are situated, and shall not exceed 10 percent (10%) of the gross floor area of all principal building(s). Conference and meeting rooms are also permitted and shall occupy no more than fifty percent (50%) of the gross floor area of all principal building(s) of the resort.
- (3) The minimum lot area shall be two acres for the first guest sleeping room, and one guest sleeping room for every 2,500 square feet of lot area thereafter. No resort hotel shall exceed one hundred (100) guest rooms.
- (4) Accessory structures shall be set back 50 feet from any lot line. Outdoor recreation use shall be set back 50 feet from any lot line, except that walking trails may be located no less than 25 feet from any property line unless said trail is connected to another trail located offsite, wherein no setback is required to achieve the connection.
- (5) Parking. The minimum parking requirements are as follows:
 - (a) For each guest sleeping room - 1.2 parking spaces
 - (b) For each 50 square feet of dining area - 1 parking space
 - (c) For each two seats in meeting rooms or group assembly areas - 1 parking space
 - (d) For each 300 square feet of retail, office, or personal-service use – 1 parking space
- (6) No loading, truck parking, trash containers or outdoor storage area shall be located within 100 feet of an adjacent residential zone. All such areas shall provide visual and noise screening to minimize impacts on adjacent residential property.
- (7) A lighting plan and landscaping plan shall be submitted in accordance with this zoning chapter.
- (8) A floor plan shall be provided demonstrating compliance with the floor area requirements.

S. Laboratory and research facility.

- (1) Shall meet the performance standards set forth in §250-17 and §250-19.
- (2) Research and experimentation involving live animals is strictly prohibited.
- (3) All materials stored on site shall be disclosed to the Planning Board, and Material Data Safety Sheets (MDSS) shall be submitted to ensure that hazardous substances are not stored in quantities to be a safety hazard to adjoining properties, the neighborhood, or Village as a whole. The Planning Board is authorized to set limits on the quantities and types of materials stored on site to protect the health, safety and welfare of the Village.

T. Landscape materials, retail and wholesale trade.

- (1) The sale and storage of garden supplies, including hand tools, mulch, soil, decorative rock, pavers, and similar non-vegetative materials shall be allowed only where clearly incidental to the principal use. Said accessory materials shall not occupy more than 15 percent of the lot area.
- (2) The materials processing of organic or inorganic materials including rock crushing, mulching, or soil screening is not permitted in conjunction with this use.
- (3) Landscape materials for retail and wholesale trade shall be contained within a solid fence at least six (6) feet in height and shall include a gate which shall be locked after business hours.
- (4) The outside storage of goods, supplies, parts, materials, or equipment shall not be located within any required yard.
- (5) Outside storage areas shall not exceed forty percent (40%) of the total lot area.
- (6) The Planning Board shall evaluate impacts related to noise, traffic, hours of operation, and lighting requirements and shall minimize to the greatest extent practicable any negative impacts on adjacent properties and uses.
- (7) With the exception of nursery stock, stockpiling of outdoor materials shall not exceed fifteen (15) feet in height.
- (8) The Planning Board may require screening of any outdoor storage areas.
- (9) The site plan shall clearly demonstrate that the use meets the requirements set forth above.

U. Laundromat.

- (1) No laundromat shall be used by the general public unless under the continuous, direct supervision of an employee or owner during all hours of operation.
- (2) All laundry machines and locations must be approved by the Code Enforcement Officer prior to the installation of machinery. A floor plan showing the business premises and the location, type and manner of installation of all equipment shall be submitted with each license application.

- (3) No laundromat shall permit or allow machines to be used by any person who is less than 14 years of age. A suitable sign indicating such age restriction must be prominently posted and maintained on the premises.
- (4) All machines shall be fitted with a device which will prevent the opening of the door of any such machine while in operation and until all solvent vapors have been removed from any textile, fabric, garment or other article and from the drum in which the same shall be placed.
- (5) Spotting operations utilizing flammable liquid shall not be permitted in this type of occupancy.
- (6) The Planning Board shall establish the hours of operation.

V. Light industry use.

- (1) Light industrial uses shall meet the performance standards contained in this Zoning chapter. All applications shall describe in detail the procedures and equipment to be utilized and shall further indicate the anticipated characteristics of the light industrial process in the framework of measurements provided by §250-17.G.
- (2) Multiple buildings are permitted on a lot, and buildings shall be separated no less than a minimum distance equal to the height of the tallest building adjoining them.
- (3) Light industrial buildings may be occupied by more than one tenant. No light industrial tenant shall occupy less than 10,000 square feet of floor area in any building.
- (4) All uses, processing and storage shall be within fully enclosed structures, and no tanks, cupolas, vents or other apparatus peculiar to the processing shall be visible outside the approved buildings. The facade of buildings and structures in light industrial use shall be compatible with adjacent development and the site shall be fully landscaped. Outdoor storage of materials is prohibited. Indoor storage shall not exceed fifty percent (50%) of the gross floor area of the total gross floor area of the light industrial use.
- (5) The reuse of an existing space for light industrial use associated with a new tenant and involving new manufacturing processes, or the expansion of any light industrial use, shall be subject to special use permit and site plan review and approval. Where a building exists and no exterior alterations are proposed, the Planning Board may waive site plan submission.
- (6) A light industrial use shall be located on a lot with frontage on NYS Route 17 or NYS Route 59.
- (7) Truck loading bays, if accessory to the use, shall be located along the side or rear of the building and shall not be permitted to front to a public street.
- (8) Subsequent to approval, tenant spaces may be leased without the need to obtain site plan approval, subject to the provisions of §200-55.B. Any new occupant business which is a special use within the applicable zoning district shall require a special use permit from the Planning Board.
- (9) A minimum 50-foot wide buffer shall be provided, consisting of planting materials, trees, berms, fences or combination thereof, shall be located between buildings and parking areas and the property line except that where a wider buffer is required elsewhere in this zoning

chapter, the more stringent standard shall apply.

(10) There shall be no retail sales conducted on the site of a warehouse.

(11) Light industrial uses are subject to architectural review and approval.

(12) All materials stored on site shall be disclosed to the Planning Board, and Material Data Safety Sheets (MDSS) shall be submitted to ensure that hazardous substances are not stored in quantities to be a safety hazard to adjoining properties, the neighborhood, or Village as a whole. The Planning Board is authorized to set limits on the quantities and types of materials stored on site to protect the health, safety and welfare of the Village.

(13) A floor plan shall be provided demonstrating compliance with the minimum floor area requirement per tenant.

W. Microbrewery.

(1) A microbrewery shall obtain the appropriate manufacturing, wholesale, retail, marketing and/or other permits or licenses from the New York State Liquor Authority prior to the issuance of a certificate of occupancy.

(2) No outdoor storage is permitted for a microbrewery.

(3) The manufacturing, bottling or kegging process shall be carried out in an area fully concealed from any street or neighboring residential zone, and shall not produce noxious odors, dust, vibration, noise, effluent or other external impacts that cause a disturbance off site.

(4) Loading bays shall not face toward any street or adjacent residential use, or shall be screened from view if there is no alternative location for the loading bays other than facing the street.

(5) The Planning Board shall assess the potential impacts associated with water usage, sanitary sewers, air and odors, noise and vibration.

(6) A tasting room, restaurant or brewpub is permitted as accessory to a microbrewery provided that the area dedicated to such use does not exceed forty percent (40%) of the total gross floor area.

X. Museum.

(1) Access shall be provided either directly from NYS Route 17 or NYS Route 17 given the highways' ability to accommodate a higher number of vehicular trips.

(2) No building or parking area shall be located closer than 50 feet to any public right-of-way or property line, or such greater minimum distance as may be required elsewhere in this Chapter.

Y. Nursery schools.

(1) A nursery school program is allowed by special use permit, provided it is accessory to a place of worship or other community facility permitted in the applicable zoning district.

(2) There shall be adequate safety provisions as determined by the Code Enforcement Officer.

- (3) A nursery school may be located only in a building that is otherwise used for public assembly.
- (4) A nursery school, regardless of whether it is conducted by a public or private operator, shall be licensed by the New York State Education Department and shall comply with 8 NYCRR Part 125 of the New York State Education law.

Z. Outdoor storage.

- (1) The requirements for accessory buildings shall apply to outdoor storage areas with respect to the minimum yard and height requirements.
- (2) The storage of materials such as lumber, building materials, contractor's equipment, shipping containers trucks or tractor-trailers shall be clearly accessory to the principal use conducted on the same lot.
- (3) Outdoor material storage shall be contained within a fence of a design to be determined by the Planning Board at a minimum of six (6) feet in height including a locking gate.
- (4) Adequate landscaping shall be provided to screen stored materials from view of adjacent properties year-round.
- (5) The Planning Board may limit the materials stored on site based on the potential fire, safety or other hazards they may pose. No materials that are deemed prohibited by the zoning chapter shall be stored on site.
- (6) The site plan shall clearly demarcate the area to be used for outdoor storage, and said area shall not be expanded or relocated without an amendment to the special use permit.

AA. Place of worship.

- (1) Places of worship shall adhere to the bulk requirements set out in Table A, Schedule of General Use and Bulk Requirements.
- (2) The hours of operation, including any educational classes that may be scheduled, shall be disclosed and made a condition of any approval.
- (3) A maximum floor area ratio (FAR) of 0.25 shall not be exceeded. The FAR shall apply to all principal and accessory buildings applicable to the use.
- (4) All structures and parking shall be screened from adjacent properties by evergreen plantings of sufficient height and diameter to substantially eliminate noise and traffic. The width of the planting screen shall not be less than twenty-five (25) feet, and the Planning Board may require a wider buffer to meet this objective.
- (5) Parking shall be provided on-site, and requirements shall be determined based upon peak attendance, notwithstanding the frequency of any peak attendance event, and the number and layout designed in accordance with the zoning chapter.
- (6) All structures shall be in harmony with the surrounding neighborhood and be of a similar architectural design. A place of worship is subject to architectural review and approval.

- (7) No parking or loading shall be permitted between the building and any street line on which the property fronts, although a drop-off shall be permitted outside the required front yard. All loading and delivery areas shall be located in the rear yard and shall be effectively screened to a height to eight (8) feet from all adjacent residential properties and the public street.
- (8) Where the place of worship is a one-family detached residence, the owner must reside therein.
- (9) The structure must comply with all applicable sections of the current New York State Uniform Code.
- (10) With the exception of waivers to the New York State Uniform Code over which the Planning Board has no jurisdiction, the Planning Board shall have discretion to waive any number of these conditions to the extent necessary if same place a substantial burden on the religious exercise of a person, religious assembly or institution.

BB. Public utility substations and pumping stations.

- (1) There shall be a showing that such facility is essential to serve the immediate neighborhood, that it cannot be located in any other type of district and that, if housed in a building, it harmonizes with the character of the neighborhood and has adequate fences and other safety devices, adequate screening and landscaping, and meets all other requirements of this chapter.
- (2) Access to such facilities shall be so located as to draw a minimum of vehicular traffic to and through residential streets.
- (3) The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
- (4) Adequate fences, barriers and other safety devices shall be provided, and landscape screening shall be provided to screen views of the utilities from adjoining properties unless waived by the Planning Board where adequate existing vegetation provides year-round screening.

CC. Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood.

- (1) Access to such facilities shall be so located as to draw a minimum of vehicular traffic to and through residential streets.
- (2) The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
- (3) Adequate fences, barriers and other safety devices shall be provided, and landscape screening shall be provided to screen views of the utilities from adjoining properties unless waived by the Planning Board where adequate existing vegetation provides year round screening.

DD. Shopping center, designed.

- (1) The bulk standards shall apply to the overall shopping center site.

- (2) Said shopping center plan, including its accessory on-site parking and loading facilities, access- and entranceways, landscaping and other elements of the plan, shall be as one comprehensive design showing the total concept, including total floor area of buildings, rather than a stage or stages with undefined future expansion areas.
- (3) The shopping center shall be designed with comprehensive and consistent architecture and shall be subject to architectural review.
- (4) Multiple buildings are permitted on a lot, and buildings shall be separated no less than a minimum distance equal to the height of the tallest building adjoining them.
- (5) Green infrastructure stormwater facilities are to be installed, including the use of landscape parking aisles for this purpose unless the Village Engineer determines that said infrastructure techniques are not feasible due to the unique soil and other conditions of the site.
- (6) Retail, personal service, health fitness facility, restaurant, and office uses are allowed in the shopping center. The Planning Board, in its discretion, may allow any other use allowed in the zoning district within which the shopping center is located. Where the use is allowed by special use permit, the Planning Board shall determine what bulk and other standards shall be applied if said use is situated in a shopping center. See subsection (10) below.
- (7) Any site plan for a shopping center shall detail the circulation system and means of connecting the shopping center with existing highways or streets. A traffic study shall be submitted with the application to ensure that the center does not have a significant adverse impact on the surrounding transportation network. The Planning Board shall transmit the plan to the fire department for review and comment.
- (8) The shopping center may be developed with individual lots that may be sold to another corporation or franchise but shall be subject to all conditions set forth in the overall site plan.
- (9) A maintenance plan shall be submitted which details how the site will be maintained kept refuse free and clean. Management of the shopping center and/or tenants of individual buildings shall provide the Village with the name and number of the maintenance organization responsible for maintaining the site.
- (10) Subsequent to approval, tenant spaces may be leased without the need to obtain site plan approval, provided the use is a permitted use as shall be determined by the Code Enforcement Officer. Any new occupant business which is a special use within the applicable zoning district shall require a special use permit from the Planning Board. The Planning Board may waive the requirement for a site plan where there will be no exterior changes to the location which the special use will occupy.
- (11) Any changes to the overall site improvements as shown on the site plan, including parking layout, size and location of landscaped areas, lighting, expansion of any buildings, renovations to the architecture, and such other changes, shall be referred to the Planning Board which shall determine whether an amended special use permit and/or site plan approval is required.

EE. Swimming pools.

- (1) A pool may be installed or maintained in any residence district or in any nonresidence district where specifically permitted.

- (2) The pool shall be an accessory use and located on the same lot of the use it serves and shall be located in a rear or side yard.
- (3) When accessory to a one-family residence, such pool shall be subject to the same requirements as accessory buildings, but in no case may be located closer than 20 feet from any lot line in an R-60 residence district or ten (10) feet from any lot line in any other residence district.
- (4) The portion of the premises upon which an in-ground pool is located shall be entirely enclosed with a good quality security fence, which, any other provision of this chapter notwithstanding, shall have a height of not less than four feet. All gates or doors opening through the fence shall be equipped with self-closing and self-latching devices designed and capable of keeping such gates or doors securely closed at all times when not in actual use. Said fence shall be of a type approved by the Code Enforcement Officer. Above ground pools shall have removable or folding type steps, which shall be kept in a non-accessible position when the pool is not in use.
- (5) Every gate or other opening in the fence enclosing such pool shall be kept securely locked at all times when said pool is not in use.
- (6) The pool shall not be located in any front yard.
- (7) Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
- (8) Where the proposed pool is so located or is of such height or design that protective fencing is not required by Code, the Code Enforcement Officer may, at his discretion, issue a permit for the installation of the pool without such fencing. The Code Enforcement Officer shall, however, first make a written finding to the effect that, in his opinion, the said pool has protection from entry equivalent to that afforded by the installation of a fence. Fencing shall comply with New York State Building Code requirements.
- (9) The pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed so that the noise shall not interfere with the peace, comfort and repose of the occupant of any adjoining property.
- (10) No permission shall be granted for the installation of any swimming pool unless the plans meet the minimum Village of Hillburn construction requirements, if applicable, nor until the owner has filed with the Code Enforcement Officer a certification that the drainage of such pool is adequate and will not interfere with the public water supply system, the existing sanitary facilities, adjoining neighbors, and with the public highways
- (11) Where necessary, approval shall be required from the Code Enforcement Officer, New York State Underwriter's Inspector that proposed electrical requirements are met.

FF. Tourism-related winery, brewery, distillery or similar food processing.

- (1) The principal building within which the food processing occurs shall not exceed 20,000 square feet. The maximum building height shall be two (2) stories or 25 feet.

- (2) Adequate parking facilities shall be provided for employees and visitors. Visitor spaces shall be located so as not to create conflicts between pedestrian movements and food processing activities.
- (3) All wastes shall be stored indoors or shall be screened and fenced in a location not visible to the public. No waste that emanates odors shall be stored outdoors.
- (4) Outdoor storage of materials and products used in the food processing operation only is permitted and shall be screened from public view. No materials shall be stored at a height greater than 15 feet. A combination of fencing, supplemental plantings and/or landscaping shall be provided to screen storage areas from public viewing areas.
- (5) All parking facilities shall be located no closer than 50 feet to any property line.
- (6) A lighting plan and landscaping plan shall be submitted in accordance with this zoning chapter.

GG. Two-family residence.

- (1) The site development plan shall provide for two off-street parking spaces per dwelling unit.
- (2) Not more than 25% of the front yard shall be paved for, or used as, parking or driveway purposes.
- (3) If parking for more than two cars is provided in side or rear yards, adequate vegetative screening and/or fencing at least four feet in height shall be provided along the property line. No parking space or driveway shall be located close than five (5) feet to any side or rear lot line. Overnight parking shall not occur with the required front yard.
- (4) Each dwelling unit shall have a separate entrance.
- (5) Two-family dwellings shall be connected to the public sewer system.
- (6) Each dwelling unit shall have at least 1,000 square feet of floor area.
- (7) The Planning Board shall make a specific written finding that the proposal is consistent with the character of the surrounding area.

HH. Warehouse or wholesale use.

- (1) These provisions shall not be interpreted as allowing a self-storage facility open to the general public for the storage of merchandise for a fee.
- (2) Outside storage shall be prohibited.
- (3) Truck-loading bays shall be located at the rear or side of the building, as determined by the Planning Board, and shall be appropriately screened from any public roadway and neighboring properties.
- (4) Access drives shall be a minimum width of 24 feet. At least two access drives shall be provided.

- (5) Storage of gasoline or other volatile petroleum products, radioactive materials, explosives or flammable or hazardous chemicals shall be prohibited and all performance standards set forth in this zoning chapter shall be met. All materials stored on site shall be disclosed to the Planning Board and Code Enforcement Officer, and Material Data Safety Sheets (MDSS) shall be submitted to ensure that hazardous substances are not stored in quantities to be a safety hazard to adjoining properties, the neighborhood, or Village as a whole. The Planning Board is authorized to set limits on the quantities and types of materials stored on site to protect the health, safety and welfare of the Village.
- (6) A minimum 50-foot wide buffer shall be provided, consisting of planting materials, trees, berms, fences or combination thereof, shall be located between buildings and parking areas and the property line except that where a wider buffer is required elsewhere in this zoning chapter, the more stringent standard shall apply.
- (7) A warehouse may provide storage of commercial goods, wares, or merchandise for a single use or multiple uses. No individual tenant space shall be less than 5,000 square feet in area.
- (8) There shall be no retail sales conducted on the site of a warehouse.
- (9) Multiple buildings are permitted on a lot, and buildings shall be separated no less than a minimum distance equal to the height of the tallest building adjoining them.
- (10) Warehouses are subject to architectural review and approval.
- (11) Subsequent to approval, tenant spaces may be leased without the need to obtain site plan approval, subject to the provisions of §200-55.B. Any new occupant business which is a special use within the applicable zoning district shall require a special use permit from the Planning Board.
- (12) Any changes to the overall site improvements as shown on the site plan, including parking layout, size and location of landscaped areas, lighting, expansion of any buildings, renovations to the architecture, and such other changes, shall be referred to the Planning Board which shall determine whether an amended special use permit and/or site plan approval is required.

Article XII Site Plan Approval

§ 250-54. Purpose.

Pursuant to the authority enumerated herein, the Planning Board of the Village of Hillburn is hereby empowered to review and approve, approve with modifications, or disapprove site plans in order to ensure that proposed development and use of land within the Village of Hillburn will have a harmonious relationship with the existing or permitted use of contiguous land and of adjacent neighborhoods and that the health, safety, welfare, comfort and convenience of the public is fully considered. No building permit shall be issued except upon approval of a site plan as required herein.

§ 250-55. Applicability.

A. Table A, Schedule of General Use and Bulk Requirements, set forth the uses which are subject to site plan approval. Except for a one-family residence which is exempted from these regulations, site plan approval by the Planning Board shall be required for the following:

- (1) Any special use permit, unless specifically exempted under the use type column in Schedule A.
- (2) Any use in the LS, GC, RED, LI, VC, or TOD Zoning Districts.
- (3) Any nonresidential use located within a residential zoning district.
- (4) Enlargement or alteration of any building or use listed in Subsections (1) through (4) above.

B. Change of use.

(1) Any change of use or intensity of use of an existing building or lot which has previously received site plan approval, and which does not involve any area variance, does not involve any enlargement or alteration, but which will result in a change in occupancy or tenancy, require a modification of existing means of access or egress, parking or loading facilities, drainage, utilities, landscaping or screening or outdoor lighting shall be reviewed by the Code Enforcement Officer, and the Code Enforcement Officer shall determine whether said change of use shall require Planning Board site plan approval. The following data shall be provided by the applicant in order for the Code Enforcement Officer to render a determination:

- (a) Description of the proposed use including: the type of use as set forth for the zoning district within which the change of use is located; number of employees, including by shift; number of required parking spaces for the use; hours of operation; anticipated vehicular and truck trips per week; amount of storage, type of material stored, and location of storage; water and sewer demand; amount of refuse disposal;
- (b) In a multitenant building, a floor plan showing the location of the occupant or tenant's space relative to the building within which it will be located.

(2) The Code Enforcement Officer shall review the existing site plan, and a determination shall be made as to whether the proposed change of use involves changes which alter the approved site plan to an extent that requires a site plan amendment or other approvals.

(3) The data shall be provided on forms supplied by the Village, and the determination of the

Code Enforcement Officer shall be placed in the files for the relevant property.

- (4) Where the Code Enforcement Officer determines that site plan approval is not required, a certificate of use shall be issued.
- (5) The Code Enforcement Officer shall have the authority to refer any application involving a change of use to the Planning Board for site plan approval.

§ 250-56. Standards.

In considering and approving site plans, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general, and of the residents, employees, tenants, customers, or users of the proposed development and the immediate neighborhood in particular, and shall prescribe appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter and the Comprehensive Plan, and the following objectives:

- A. The opportunity for safe, adequate and convenient vehicular and pedestrian traffic circulation both within and without the site. The proposed traffic accessways shall be sufficient, but not excessive, in capacity; are adequate in width, grade, alignment and visibility; are not located too near street corners or places of public assembly; are designed with due regard to other similar safety considerations; and are provided with all traffic safety devices needed for the protection of motorists, cyclists and pedestrians. At least the following aspects of the site plan shall be evaluated to determine conformity to this standard:
 - (1) The effect of the proposed development on traffic conditions on existing streets.
 - (2) The number, locations and dimensions of vehicular and pedestrian entrances, exits, drives and walkways.
 - (3) The adequacy of safe visibility at all exit points of the site. The driver of a motor vehicle should have an unobstructed view of the street for the distance necessary to allow safe entrance into the traffic stream.
 - (4) The location, arrangement and adequacy of off-street parking and loading facilities.
 - (5) Interconnection of parking facilities via access drives between adjacent lots, designed to provide maximum safety, convenience and efficiency of traffic circulation, and to minimize curb cuts on neighboring streets.
 - (6) Patterns of vehicular and pedestrian circulation both within the boundaries of the development and in relation to the adjoining road and sidewalk system.
 - (7) The location, arrangement and adequacy of facilities for the physically handicapped, such as ramps, depressed curbs and reserved parking spaces.
 - (8) The location, arrangement and adequacy of landscaping within and bordering parking facilities and loading spaces.
 - (9) The adequacy of fire lanes and other emergency facilities and services. The applicant shall be required to allow enforcement of parking and traffic circulation restrictions by local police,

fire and village officials, as determined appropriate.

- B. The protection of environmental quality and the preservation and enhancement of property values. At least the following aspects of the site plan shall be evaluated to determine conformity to this standard:
- (1) The location, height and materials of walls, fences, hedges and plantings so as to ensure harmony with adjacent development, screen parking facilities and loading spaces and to conceal storage areas, refuse areas, utility installations and other such features.
 - (2) The prevention of dust, erosion and drainage onto adjacent properties both during and after construction, through the planting of ground cover or the installation of other appropriate protective devices and/or ground surfaces.
 - (3) The preservation of natural features such as wetlands, unique wildlife habitats, historic structures, major trees and scenic views both to and from the site.
 - (4) The arrangement, type and design of signage and exterior lighting. That all outdoor lighting is of such nature and so arranged as to harmonize with the character of the neighborhood and preclude the diffusion of glare onto adjoining properties and streets.
 - (5) The design and arrangement of buildings, structures and accessory facilities (such as air conditioning systems, public address systems, etc.) so as to achieve minimum and acceptable noise levels at the property boundaries.
 - (6) The provision of adequate storm and surface water drainage facilities so as to properly drain the site while maximizing groundwater recharge, minimizing downstream flooding and preventing the degradation of water quality.
 - (7) Access to sunlight as related to building siting, orientation and landscaping, as well as present and potential future solar energy systems. The site plan and building design shall conserve energy to the maximum extent.
 - (8) The design and arrangement of facilities to accommodate both refuse and recycling storage containers.
- C. That, wherever possible, areas set aside for play and other active use by residents or users of the site are located with due regard for their safety and welfare.
- D. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets where practical and needed for the protection of such lots and streets; that the general landscaping of the site is in character with or superior to that generally prevailing in the neighborhood and will enhance the aesthetic aspect of the abutting street or streets; and that all existing trees over eight inches in diameter, measured three feet above the base of the trunk, are retained to the maximum extent possible.
- E. That all areas not paved or improved with buildings be landscaped so as to avoid the creation of expanses of pavement.
- F. That the drainage and sewerage systems are adequate to accommodate any expected loads, and that all runoff from storm and subsurface waters are carried into approved watercourses and

drainage systems shown on official maps, and that all connections to Village systems are in accordance with Village standards, and, where appropriate, that such drainage improvements be installed on easements to be granted to the Village of Hillburn.

- G. That all proposed structures, equipment or materials will be readily accessible for fire and emergency protection and will not constitute a fire hazard for adjacent structures, and that adequate provision be made for emergency services, including the provision of water to meet fire safety requirements, based on recommendations or requirements of the Hillburn Fire Department.
- H. That the site layout and overall appearance of buildings on the site will not have any reasonably avoidable adverse impact upon the desirability of adjacent properties by impairing the established character or value thereof.

§ 250-57. Referral to Rockland County Department of Planning.

In accordance with § 239 et seq. of the General Municipal Law of the State of New York, any site plan meeting the requirements of § 250-51 shall be referred to the Rockland County Department of Planning.

§ 250-58. Procedure.

- A. Site plan approval required. In all cases where this Zoning Chapter requires site plan approval as set forth in herein, no building permit or certificate of occupancy shall be issued by the Code Enforcement Officer except upon authorization of, and in conformity with, site plan approval of the Planning Board. The Code Enforcement Officer shall review all land development applications, determine whether the use is allowed in the zoning district where proposed, and whether the application shall require site plan review and approval from the Planning Board.
- B. Application. The site plan application and any necessary accompanying drawings or maps shall contain those items required by the Planning Board as are listed in Site Plan Specifications below and shall be provided in 10 copies. The Planning Board may vary or waive the provision of any of the required information listed in § 250-61 hereof only where it finds it to be inappropriate or unnecessary due to special conditions peculiar to the site. The Board shall assure that the granting of such variance or waiver will not have a detrimental effect on the public health, safety or general welfare.
- C. Application for area variance. Notwithstanding any provisions of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, applications may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of the Code Enforcement Officer.
- D. Payment of fee. The applicant shall pay a fee in accordance with the schedule of fees of the Village of Hillburn.
- E. Review for completeness. Upon receipt of an application for site plan approval, the Planning Board shall review the application and accompanying maps for completeness. The Planning Board shall deem the application complete at a scheduled meeting.
- F. SEQRA. The Planning Board shall comply with the regulations implementing SEQRA under article eight of the environmental conservation law.
- G. Public hearing and decision on site plans. The Planning Board, in its discretion, may hold a public

hearing. In the event a public hearing is held, the Planning Board shall conduct a public hearing within sixty-two (62) days from the date of the meeting at which the site plan application is deemed complete, and shall make a decision on the application within sixty-two (62) days after such hearing, or after the date of the meeting at which it is deemed complete if no hearing is held. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and such board. The decision of the Planning Board shall be filed in the office of the Village Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

- H. Conditions attached to the approval of site plans. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by the Code Enforcement Officer or other officials of the Village.
- I. Signing and filing. Following approval by the Planning Board, the site plan shall be signed by the Planning Board Chairperson and filed with the Planning Board office and Building Department. The maps shall not be signed until all Planning Board conditions required prior to filing of the signed map are satisfied. Upon signing and filing, the Code Enforcement Officer may issue a building permit or certificate of occupancy in reliance thereon. No changes, erasures, modifications or revisions shall be made to any site plan after approval has been granted by the Board and endorsed, in writing, on the site plan; otherwise the site plan shall be deemed void.
- J. Site plan approval; maintenance a continuing obligation.
 - (1) In the event a site plan is approved with conditions, the applicant shall have 180 days from the date of approval to satisfy such conditions. Failure of the applicant to satisfy such conditions within such one-hundred-eighty-day period shall render the site plan approval void. The Planning Board, upon good cause shown, may extend the one-hundred-eighty-day period for one additional one-hundred-eighty-day period.
 - (2) Site plan approval shall be effective for a period of three years from the date the resolution of approval is adopted by the Planning Board. If, at the end of the three-year period, the applicant has not commenced construction, site plan approval shall expire automatically and the applicant must reapply for site plan approval pursuant to this Zoning chapter. If, at the end of five years from the date of approval, construction is not completed and a certificate of occupancy issued, site plan approval shall automatically expire and the applicant must reapply for site plan approval pursuant to this Zoning Chapter.
 - (3) Site maintenance. It shall be a continuing obligation and requirement to maintain a property in compliance with the approved site plan. Failure to do so shall constitute a violation of this Zoning Chapter.
- K. Amendment to approved site plan. An application for an amendment to a previously approved site plan shall be acted upon in the same manner as the application for approval of the original site plan.
- L. Surety bond required. Following approval of the site plan by the Planning Board, in addition to any other fees required by the Village, the applicant shall file with the Village Clerk adequate surety in an amount set by the Planning Board in consultation with the Village Engineer, sufficient to cover

the full cost of any required on- or off-site improvements. Said surety may consist of one or more of the following: cash; performance bond, passbook, or the completion of improvements prior to the issuance of the building permit or certificate of occupancy or use, as determined by the Planning Board. The form of the surety must be approved by the Village Attorney. If the value of improvements is less than \$10,000, the Planning Board may waive the surety requirements.

- M. Surety. The surety bond may cover any of the following, among others: proposed screening and landscaping, including planting and maintenance thereof for a minimum of one year and a maximum of three years, at the discretion of the Planning Board; stormwater drainage system; streets and drives; water and sanitary sewer systems; outdoor lighting; off-street parking and loading areas; means of vehicular access and egress to and from the site onto public streets; recreation areas, including playgrounds; garbage collection stations; and fire alarm systems (if any). Release of the said surety shall be conditioned upon completion by the property owner or developer of all of the applicable work, as set forth on the approved site plan, in a manner satisfactory to the Village Engineer, and upon the proper functioning of said systems for a period of one year following their completion.
- N. Completion of improvements. No certificate of occupancy shall be issued for the property until the improvements shown upon the site plan and the off-site improvements, as required by the Planning Board, have been duly installed, and all easements and property interests granted or dedicated to the Village; except that, where an improvement bond has been required, a certificate of occupancy may be issued where the bond has been duly approved and filed.

§ 250-59. Referral.

The Planning Board may request a review of the site plan by the Village Engineer or other department, official or agency of the Village or by outside experts or the County Highway Department, which opinion shall be rendered within the period set forth in § 250-58F above.

§ 250-60. Reserved.

§ 250-61. Site plan specifications.

- A. Required information. The following information must be submitted in conjunction with any application for site plan approval, except that the Planning Board may waive those items determined to be unnecessary in individual situations. The site plan shall be prepared and certified by a professional engineer, land surveyor or registered architect licensed in New York State.
 - (1) An area map at a convenient scale, which shall include railroads, streams, street rights-of-way and street intersections; the location of the nearest public roads on all four sides; all public improvements such as schools, firehouses, houses of worship, recreational areas, etc.
 - (2) A map of applicant's entire holding, at a convenient scale, and all surrounding properties.
 - (3) The names of all owners of record of adjacent property.
 - (4) Existing school, zoning and special district boundaries within 500 feet of the property.
 - (5) Current survey of the boundaries of the property and existing lot lines as shown on the current tax map as well as tax map and lot numbers, and a zoning legend demonstrating compliance with the Schedule A, Table of General Use and Bulk Requirements.
 - (6) Existing public streets, easements or other reservations of land.

- (7) A copy of the deed and any covenants or deed restrictions that are intended to cover all or any part of the tract.
- (8) Location of all existing structures on the site, as well as those on adjacent properties within 100 feet of subject lot line.
- (9) The proposed location and use of any building or structure.
- (10) The proposed location of any use not requiring a structure, including walkways, benches, fences, recreational facilities.
- (11) Floor plans and elevations of all proposed buildings or structures or accessory structures, and details of all proposed outdoor signs.
- (12) All existing and proposed means of vehicular access and egress to and from the site.
- (13) Location and design of all driveways, parking and loading areas, and parking legend with parking calculations to determined required number of parking and loading spaces.
- (14) Location of all existing and proposed waterlines, valves and hydrants and all sewer lines.
- (15) Proposed sewage disposal system or sewer connections.
- (16) Proposed stormwater drainage system, including physical details and engineering computations.
- (17) Proposed fencing, screening and landscaping.
- (18) Proposed location, direction and type of outdoor lighting.
- (19) Current boundary survey with existing contours, at two-foot intervals or less extending 50 feet beyond the property line.
- (20) Proposed grading plan with proposed contours at two-foot intervals or less extending 50 feet beyond the property line.
- (21) Location of existing watercourses, wooded areas, rock outcrop, and single trees with a diameter of 8 inches or more measured four feet above the ground level. All features set forth in 250-17.F, 250-17.H and 250-17.I shall be shown.
- (22) Where the applicant wishes to develop the project in stages, a site plan indicating ultimate development shall be presented for approval of the entire parcel.
- (23) Proposed limits of disturbance and soil erosion control plan.
- (24) The Planning Board, in its discretion, may require the following additional data in support of a development application:
 - (a) Material data safety sheets.

- (b) Floor plans, elevations and renderings.
 - (c) Visual and noise impact analyses.
 - (d) Demographic analysis or data, describing the population to be generated by the proposed project, which shall consider, among other information, the anticipated household type and household size for residential subdivisions or site plans.
 - (e) Ecological survey.
 - (f) Cultural resource survey.
 - (g) Traffic impact analysis.
 - (h) Groundwater impact analysis.
 - (i) Water supply demand and wastewater generation calculations.
 - (j) Stormwater analysis.
 - (k) Any other report or study deemed necessary to render a decision on the site plan application. The Planning Board may require additional data where it is warranted due to special conditions of the site or complexity of the proposed development.
- B. Amending specifications. These specifications may from time to time be amended or modified by the Planning Board. All amended or modified specifications shall be approved by the Village Board in conformity with the procedure for amendment of this chapter.
- C. Informal review. An applicant may submit, at his discretion and subject to the consent of the Planning Board, prior to a formal submission, an application to the Planning Board for informal site plan review. The applicant shall submit all items required, including payment of 1/2 the required fee, but need not submit a complete site plan as required for final application for site plan approval.

§ 250-62. Reserved.

§ 250-63. Public and site improvements, recreation.

- A. All public and site improvements to be constructed pursuant to an approved site plan shall conform to Village standards.
- B. Reservation of parkland on site plans containing residential units. Before the Planning Board may approve a site plan containing residential units, such site plan shall also show, when required, a park or parks suitably located for playground or other recreational purposes.
- (1) Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the village. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the village based on projected population growth to which the particular site plan will contribute.

- (2) In the event the Planning Board makes a finding that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirements cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof to be established by the village board of trustees. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the village exclusively for park, playground or other recreational purposes, including the acquisition of property.
- (3) Notwithstanding the foregoing provisions of this subdivision, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved, the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

Article XIII

Historic and Architectural Review

§250-64 Architectural review.

- A. Findings and purpose. The Village Board hereby finds that excessive uniformity, dissimilarity, inappropriate or poor quality of design in the exterior appearance of buildings or other structures erected or altered can adversely affect the desirability of the immediate and neighboring areas and, by doing so, impair the benefits of occupancy of existing property in such areas, impair the stability in value of both improved and unimproved properties in such areas, prevent the most appropriate development and use of such areas. It is the purpose of this section to prevent these and other potentially harmful effects resulting from unattractive exterior appearance of buildings and other structures erected or altered and thus to promote the public health, safety and welfare, to conserve the value of buildings, to encourage the most appropriate use of land and to protect and improve the physical and visual appearance of the Village of Hillburn. It is further the purpose of this section is to preserve the village and historic yet rural character of Hillburn and to allow a variety of architectural styles and character while discouraging excessive dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings erected or altered.
- B. Planning Board review.
- (1) In order to eliminate inappropriate and poor quality design in the exterior appearance of structures erected, reconstructed or altered in any zoning district in the Village, the Planning Board shall have the powers of architectural review for any site plan, special use permit, or subdivision application subject to Planning Board review and approval. In any site plan or special use permit, the Planning Board shall review all buildings, structures, landscaping, lighting, solid waste areas, and materials and design associated with same. In any subdivision, the Planning Board shall review all common building or structural elements of a plan, including common landscaping, signage, lighting, fences, and structures including but not limited to stormwater management facilities.
 - (2) Any modification, renovation or restoration of the facade, including the lighting of any existing or proposed building other than a one-family detached residence, shall hereby be subject to architectural review by the Planning Board if it is or was the subject of a site plan, special use permit, or subdivision review. Minor revisions of existing facades may be waived by the Planning Board.
 - (3) An applicant seeking architectural approval for a new construction project, or a rehabilitation project of an existing building, shall include all proposed wall-mounted and freestanding signs with the application. No application for architectural approval shall be deemed complete, and no approval shall be granted, where said application does not include all exterior signage.
- C. Advisory consultants; responsibilities. The Planning Board is hereby authorized and empowered to retain an architect, landscape architect, or other such expert as it deems desirable or necessary to advise on specific applications. The Board shall restrict its considerations to a reasonable and professional review of the proposal and plans, leaving full responsibility for the design and development to the applicant. The Board shall not design or assist in the design of any buildings or structures submitted for recommendations.

D. Procedure for review of plan.

(1) Submission. Upon the filing of a site plan, special use permit or subdivision application, the applicant shall also submit the information set forth herein, and such information that the Planning Board deems necessary to render a decision on the architectural review of the building or structure:

- (a) Any plan submitted to the Planning Board in connection with the application;
- (b) Building permits, renderings, elevations or other information applicable to existing on-site or adjacent buildings, if applicable;
- (c) Architectural data, including plans and elevations, full narrative description of materials, samples, color swatches of all exterior materials - including roofing, trim, siding, windows, doors, lighting fixtures, sidewalk and paving materials to be used; gross building area; height, width and depth;
- (d) Three-dimensional sketch or rendering illustrating significant aspects of construction and exterior design, when deemed necessary and requested by the Planning Board, at a scale deemed appropriate for review by same;
- (e) Any other pertinent details that the Planning Board determines are relevant to the review of the application.

E. Application completeness. An application shall be deemed incomplete until such time as the applicant has submitted all data required by the Planning Board to render a decision. The Planning Board, at the request of the applicant, may waive any of the required submissions, where said submission is deemed unnecessary in order for the Planning Board to render a decision.

F. Site visit. The Planning Board is granted authority to visit the site which is the subject of the application.

G. Submission of preliminary design plans. In connection with the submission of an application, an applicant is encouraged to first submit preliminary designs to the Planning Board for review and comment prior to final design preparation, in order to preclude the burden of submitting multiple revisions of drawings or other materials that are submitted for review.

H. SEQRA. Actions subject to Planning Board review and decision-making shall comply with the regulations implementing the New York State Environmental Quality Review Act.

I. Timeframe and decision. All timeframes for a decision shall run concurrent with the decision timeframes for any site plan, subdivision or special use permit. The Planning Board may approve; conditionally approve subject to specific modifications; or disapprove any application, where the Board finds that the building for which the permit is applied would, if erected, be so detrimental to the desirability, property values or development of the surrounding area or region as to provoke one or more of the harmful effects set forth in subsection A above.

J. Standards. In reviewing the plan, the Board shall give consideration to:

(1) The architectural value and significance of the structure and its relationship to the surrounding area.

- (2) The general appropriateness of the exterior design, arrangement, texture and materials proposed to be used.
- (3) Where new construction, alterations, repairs or additions are undertaken, they shall be consistent with the architectural style of existing buildings or the architectural style of the surrounding area, if deemed appropriate by the Planning Board. The Planning Board shall specifically consider whether on-site or adjacent buildings are historic, and whether the above shall be consistent with same.
- (4) Excessive dissimilarity or inappropriateness in relation to any other structure, existing or for which a permit has been issued, in respect to one or more of the following features: cubical content, gross floor area, building area or height of roof or other significant design features, such as materials or style of architectural design.
- (5) Excessive similarity to any other structure existing, or for which a permit has been issued, in respect to one or more of the following features of exterior design and appearance: apparently identical front, side or other elevations visible from the street, substantially identical size and arrangement of either doors, windows, porticoes or other openings or breaks in the elevation facing the street, including reverse arrangement; or other significant identical features of design, such as, but not limited to, material, roof line, height or other design elements.
- (6) New structures should be constructed to a height visually compatible with the buildings and environment to which they are visually related.
- (7) The gross volume of any new structure should be visually compatible with the buildings and environment to which it is visually related.
- (8) In the elevations of a building, the proportion between the width and height in the facades should be visually compatible with the buildings and environment to which they are visually related.
- (9) The proportions and relationships between doors and windows in the facades should be visually compatible with the buildings and environment to which they are visually related.
- (10) The rhythm of solids to voids, created by window, door and other openings in the facade, should be visually compatible with the buildings and environment to which it is visually related.
- (11) The existing rhythm created by existing building masses and spaces between them should be preserved, insofar as practicable.
- (12) The materials used in the facades should be visually compatible with the buildings and environment to which they are visually related.
- (13) The texture inherent in the facades should be visually compatible with the buildings and environment to which they are visually related.
- (14) Colors and patterns used on the facades should be visually compatible with the buildings and environment to which they are visually related.

- (15) The design of the roof should be visually compatible with the buildings and environment to which it is visually related.
 - (16) The landscape plan should be sensitive to the individual building and to its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment to which it is visually related.
 - (17) All facades should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
 - (18) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.
 - (19) The setback of the buildings from the street or property line and the other yard setbacks should be visually compatible with the buildings and environment to which they are visually related.
 - (20) Signs should be of a size, scale, style, materials and illumination that are visually compatible with the building to which they relate and should further be visually compatible with the buildings and environment to which they are visually related.
 - (21) Any of the factors, including aesthetics, which it deems pertinent.
- K. Design guidelines. The Planning Board, in furtherance of the requirements of the purposes of this section, shall be empowered to enact and adopt by resolution and amend, modify or supplement written rules and regulations constituting specific criteria for consideration under its architectural review powers herein granted.
- L. Substantial change of approved plans. Any substantial change in siting or in the exterior appearance of any approved project may be subject to review and reconsideration by the Planning Board at the discretion of the appropriate referring agency or the Planning Board.

§250-65 Historic review.

A. Purpose. It is hereby declared that the preservation of historic sites, areas, buildings and landmarks located in the Village of Hillburn is essential to the general welfare of the community, and the purpose of this section is to:

- (1) Safeguard the heritage of the Village of Hillburn by preserving sites and districts in the Village which reflect its agricultural, cultural, social, economic, political and architectural history.
- (2) Protect buildings, structures, and areas in the Village which are recognized as architecturally historic sites and landmarks.
- (3) Ensure that new development considers any potential impact on adjoining historic buildings or structures.
- (4) Stabilize and improve property values.
- (5) Foster civic beauty.
- (6) Strengthen the local economy.

B. Applicability. This section shall apply to any building, structure or property within the Village of Hillburn that is: listed on the National or State Register of Historic Places; eligible for listing on the National or State Register of Historic Places; any building or structure identified in the Village of Hillburn Comprehensive Plan Update in the historic resources section; any building, structure, or property identified by the Village of Hillburn Historian as a historic property; or, identified on the Historic Sites and Structures Inventory (1997). Listing or eligibility for listing of a property on the National Register of Historic Places or the State Register of Historic Places shall create a presumption of the historic significance of a property. However, other properties not so listed or documented as eligible for listing may still be considered historic under the provisions of this section. The Code Enforcement Officer shall not issue a building permit or demolition permit until a certificate of approval of the plans has been issued by the Planning Board. No property, building, or structure shall be constructed, altered, repaired, moved or demolished unless such action complies with the requirements hereinafter set forth.

C. Procedure. Prior to the issuance of a building permit, all plans for the construction, alteration, repair, or demolition of a property, building, or structure regulated by this section shall first be submitted to the Planning Board, which shall have the power to pass upon such plans before a permit shall be granted; provided, however, that the Planning Board shall pass only on such exterior features and shall not consider interior arrangements. In reviewing the plans, the Board shall give consideration to:

- (1) The historic or architectural value and significance of the property, building or structure and its relationship to the historic value of the surrounding area.
- (2) General appropriateness of the exterior design arrangement, texture and materials proposed to be used.
- (3) The scale of proposed alteration or new construction in relation to the property itself, and surrounding properties.
- (4) Texture and materials and their relation to similar features of other historic properties which

may adjoin the property or structure under review.

- (5) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the front facade, roof shape, and the rhythm of spacing of properties on streets, including setback.
- (6) The importance of historic, architectural or other features to the significance of the property.
- (7) Any other factor, including aesthetics, which it deems pertinent.
- (8) Alterations, repairs and additions to existing buildings shall either be made consistent with the spirit of their architectural style.
- (9) New construction shall be consistent with the architectural style of the historic property.
- (10) Demolition shall be prohibited if the Planning Board shall determine it to be of a particular architectural or historical significance.
- (11) The moving of structures of historic and architectural value may be permitted by the Planning Board as an alternative to demolition.

D. Procedure for review of plan.

- (1) Application for a building permit to construct, alter, repair, move or demolish any property, building, or structure regulated herein shall be made to the Code Enforcement Officer.
- (2) Upon the filing of such application, the Code Enforcement Officer shall immediately notify the Planning Board and shall transmit to such Board the application and any supporting plans or documents. The Planning Board shall consider such application and shall approve, approve with modifications, or disapprove the plans and, if it shall approve such plans, shall issue a certificate of approval and transmit the same to the Code Enforcement Officer.
- (3) If the Planning Board shall disapprove the plans, it shall so notify the Code Enforcement Officer, who shall thereupon deny the application for a permit.
- (4) Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any property, building or structure.

E. Advisory review. The Planning Board of the Village of Hillburn is hereby authorized and empowered to retain, as an Historical Advisory Board, the Village Historian, architects and other such experts as it deems desirable or necessary, to advise on specific applications. The Planning Board may also refer any application under this section to the Ramapo Historical Society, the Rockland County Historical Society, and/or the New York State Historic Preservation Office for an opinion as to the historic significance of the structure and recommendations on appropriate restrictions on construction or alteration.

F. Certificate of appropriateness.

- (1) No person shall carry out any alteration, demolition, or new construction of a regulated building or structure until the Planning Board has issued a certificate of appropriateness or a resolution deeming such certificate is not required and, when required, a building or

demolition permit from the Code Enforcement Officer. The certificate of appropriateness required by this section shall be in addition to, and not in lieu of, any building permit or other approval required by the Village of Hillburn Code.

- (2) The Code Enforcement Officer shall not issue a building or demolition permit for any activity regulated by this section, other than in the case of an emergency demolition as provided above, until the Planning Board has issued a certificate of appropriateness or a resolution deeming such certificate is not required or, subsequently, upon request for review of the disapproval of such certificate of appropriateness, a certificate of hardship.

G. Application requirements for certificate of appropriateness.

- (1) Sketch phase. The sketch application shall include the name, address, and telephone number of the owner and applicant, if different, the property location and tax map number(s), photograph(s), and a sketch or description of the proposed alteration, demolition or new construction. Every sketch phase application for a certificate of appropriateness shall be forwarded by the Code Enforcement Officer to the Planning Board. The applicant shall provide the Code Enforcement Officer with the name, address, and telephone number of the owner and applicant, if different, the property location and tax map number(s), photograph(s), and a sketch or description of the proposed alteration, demolition or new construction.

- (2) Complete application. The following information is required unless waived by the Planning Board in its discretion:

- (a) Photographs and a brief description of any structure proposed to be altered or demolished, including approximate date of construction, name of architect if known, historic and/or architectural significance, and a description of the setting, including related grounds, accessory buildings and structures and property boundaries.

- (b) Past 10 years' chronology of the use, occupancy and ownership of the property.

- (c) A complete description of the proposed work adequate to provide a full understanding of the work to be done.

- (d) Construction drawings and materials lists.

- (e) Any other information specific to the proposed alteration, demolition, or new construction required by the Planning Board to make a determination on the application for a certificate of appropriateness, including data to demonstrate compliance with the criteria for approval set forth below.

- (f) For a proposed demolition, plans for the redevelopment of the property, including at least one of the following:

- [1] A redevelopment plan for the property that provides for a replacement or rebuilt structure for the regulated structure being demolished or relocated, indicating in sufficient detail the nature, appearance and location of all replacement or rebuilt structures; or

- [2] For property to remain vacant, a restoration plan for the property following demolition, including a description of the materials, grading, landscaping, and

maintenance procedures to be utilized to ensure that the restoration conforms to the approved plan and that landscaping survives in a healthy condition; and/or

[3] A treatment plan for any walls of adjacent buildings exposed as a result of the demolition.

(g) An environmental assessment form (EAF), when applicable. If demolition is proposed in conjunction with the alteration or new construction of a regulated structure, the EAF shall consider both actions.

H. Criteria for approval of a certificate of appropriateness.

(1) Alteration. In reviewing an application for a certificate of appropriateness for the alteration of a regulated building or structure, the Planning Board shall determine whether the proposed alteration is appropriate, based on the following standards:

(a) Insofar as possible, the proposed alteration shall retain exterior architectural features of the regulated structure which contribute to its historic character.

(b) Alteration of the regulated structure shall be compatible with its historic character. The Planning Board shall be guided, where appropriate, by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(c) In applying the principle of compatibility, the Planning Board shall consider the following factors:

[1] The general design, character and appropriateness of the proposed alteration to the regulated structure;

[2] The scale of proposed alteration in relation to the regulated structure and the applicable district;

[3] Texture and materials, and their relation to similar features of the regulated structure and similar structures of the same historic period and style;

[4] Visual compatibility, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm or spacing of properties along the street or roadway, including consideration of setback and the treatment of yard areas;

[5] The importance of the regulated structure and its architectural or other features to the historic significance of the Village or other regulated structures on the lot;

[6] The history, use, occupancy and ownership of the property;

[7] Information and/or testimony as to the appropriateness or inappropriateness of the proposed alteration.

(2) Demolition. In reviewing an application for a certificate of appropriateness for the demolition of all or a portion of a regulated structure, the Planning Board shall consider whether:

- (a) The structure is of such architectural or historic significance that its demolition would be to the detriment of the public interest;
 - (b) Retention of the structure in its current form and/or at its present location is important to the Village's history or character;
 - (c) The structure is of such old and unusual or uncommon design, texture and material that it could be reproduced only with great difficulty, or not at all;
 - (d) Retention of the structure would help preserve and protect an historic place or area of historic interest in the Village;
 - (e) Retention of the structure would promote the general welfare by maintaining real estate values and encouraging interest in American history and architecture;
 - (f) Whether throughout the review process the applicant has consulted cooperatively with the Planning Board, local preservation groups and other identified interested parties in a diligent effort to seek an alternative that would result in preservation of the regulated structure;
 - (g) In order to approve an application for a certificate of appropriateness for demolition, the Planning Board shall find that the demolition will not result in a significant avoidable diminution of the historic character of the neighborhood and that one or more of the following additional criteria have been met:
 - [1] The structure or portion of the structure to be demolished is in such condition that its preservation or restoration would not be feasible.
 - [2] In the case of removal or demolition of a portion of a structure, the historic characteristics of the remaining portion of the structure will remain intact.
 - [3] After considering the interests of the public and the owner, the benefits of demolition outweigh any reasonable interest in preserving the building.
- (3) New construction. Criteria for approval of a certificate of appropriateness for new construction of a regulated property, building or structure.
- (a) New construction shall not detract from the historic significance of the property, district or adjacent regulated structures or from the community character. Review of new construction shall be limited to visual compatibility and minimizing impacts to any adjacent regulated structures. In applying the principle of compatibility, the Planning Board shall consider the following factors:
 - [1] The scale of proposed new construction in relation to adjacent regulated structures and the neighborhood.
 - [2] The proposed texture and materials, and their relation to similar features of adjacent regulated structures.
 - [3] The visibility of the property from regulated structures.

[4] Information and/or testimony as to the appropriateness or inappropriateness of the proposed structure in connection with the purpose and intent of this section.

- (b) Nothing herein shall prohibit the Planning Board from granting a certificate of appropriateness for a structure of exceptional architectural merit if the Planning Board finds, in writing, that the exceptional architectural merit of the new structure outweighs any visual impacts on nearby regulated structures.

I. Planning Board review procedure.

- (1) Upon receipt of a complete application, the Planning Board shall refer the submission to the Rockland County Department of Planning pursuant to Section 239-m of the General Municipal Law, when required.
- (2) The Planning Board shall hold a public hearing within 62 calendar days after receipt of a complete application.
- (3) The Planning Board shall render its written decision and findings within 62 calendar days after the conclusion of the public hearing.
- (4) Conditions. The Planning Board, in granting any approval, shall have the authority to impose such reasonable conditions and restrictions as necessary.
- (5) The Board's decision shall be filed with the Village Clerk and Code Enforcement Officer and mailed to the owner and applicant within five (5) business days. If the Planning Board denies approval of the application for a certificate of appropriateness, the applicant may apply for relief, in accordance with the procedures set forth in Subsection L below, on the grounds that the determination results in an economic hardship.

J. Waivers. The Planning Board may waive the requirement for a public hearing, in its discretion, upon a finding that the alteration, demolition or new construction will not result in a significant avoidable diminution of the historic character of the regulated structure or property, and that the alteration, demolition or new construction would be appropriate in relation to any other regulated structure existing or proposed within 300 feet after applying the standards set forth in this section.

K. Certificate of hardship. An applicant whose certificate of appropriateness has been denied by the Planning Board may apply to the Zoning Board of Appeals for relief on the grounds of hardship.

- (1) No person who has been denied a certificate of appropriateness shall carry out any alteration, demolition or new construction of a regulated structure without obtaining both a certificate of hardship from the Zoning Board of Appeals and a building or demolition permit from the Code Enforcement Officer.

(2) Procedure.

- (a) A public hearing shall be held on the hardship application within 62 days of receipt of a complete application by the Zoning Board of Appeals.
- (b) The Zoning Board of Appeals shall make a decision within 62 days of the close of the public hearing.

- (c) The decision of the Zoning Board of Appeals shall be in writing and shall state the reasons for granting or denying the hardship application. If the application is granted, the Zoning Board of Appeals shall approve only such work as is necessary to alleviate the hardship. In granting any approval, the Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as necessary.
- (3) In order to prove the existence of hardship, the Zoning Board of Appeals must find that:
- (a) In the absence of the requested hardship determination, the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (b) In the case of a proposed demolition, the applicant shall establish that:
 - [1] The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - [2] Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (4) The applicant shall consult in good faith with the Zoning Board of Appeals, the New York State Historic Preservation Office, preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- (5) The Zoning Board of Appeals shall take into consideration the economic feasibility of alternatives to alteration, demolition, or new construction and balance the interest of the public in preserving the regulated structure or portion thereof and the interest of the owner in alteration, demolition or new construction.
- (6) The Zoning Board of Appeals may require that the applicant make submissions concerning any or all of the following information before it makes a determination of hardship:
- (a) Estimate of the cost of the proposed alteration, demolition or new construction, and an estimate of any additional cost that would be incurred to comply with the recommendation of the Planning Board for changes necessary for the issuance of a certificate of appropriateness;
 - (b) A report from a licensed engineer or architect, with demonstrated qualifications and experience in rehabilitation, regarding the structural condition of any structures on the property and their suitability for rehabilitation;
 - (c) Estimated market value by a licensed appraiser of the property in its current condition; after completion of the proposed alteration, demolition, or new construction; after any changes recommended by the Planning Board; and, in the case of a proposed demolition, after renovation of the existing property for continued use;
 - (d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation, regarding the economic feasibility of rehabilitation or renovation for reuse of a structure proposed for demolition;

- (e) Amount paid for the property, deed, the date of purchase, and the party from whom purchased, and a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer;
 - (f) If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation and annual cash flow before and after debt service, if any, during the same period;
 - (g) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years;
 - (h) All appraisals obtained within the previous two years by the owner or applicant in connection with purchase, financing, or ownership of the property;
 - (i) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years;
 - (j) Assessed value of the property according to the two most recent assessments;
 - (k) Real estate taxes for the previous two years;
 - (l) Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other; and
 - (m) Any other information deemed necessary by the Zoning Board of Appeals to make a determination of economic hardship.
- (7) Upon a finding by the Zoning Board of Appeals that without the issuance of a certificate of appropriateness all reasonable use of, or return from, the property will be denied a property owner, then the Zoning Board of Appeals shall issue a certificate of hardship approving the proposed work.

L. Expiration.

- (1) Certificates of appropriateness and of hardship for demolition shall expire one (1) year from the date of approval. Certificates of appropriateness and hardship for alteration and new construction shall expire if any of the following circumstances occur: work authorized under the Certificate is not commenced and diligently pursued through the completion of substantial construction within 30 months of the date of approval by the Planning Board or Zoning Board of Appeals, or within 30 months of the stamping and signing of a related site plan, whichever is later.
- (2) Upon prior written request to the Planning Board or Zoning Board of Appeals, whichever board is responsible for issuing the certificate, at least 21 days before expiration, including a statement of justification for the requested time extension, the time in which to exercise the permit may be extended by the applicable board for a maximum period of six calendar months and one calendar year, respectively.

- M. Emergency demolition. Nothing in this section shall prevent the emergency demolition of a regulated structure authorized by the Code Enforcement Officer.
- N. Consultant. The Planning Board and Zoning Board of Appeals is authorized to retain an architectural historian or other professional knowledgeable in historic preservation to review a proposed application. The cost of any such review shall be born by the Applicant.

Article XIV

Zoning Board of Appeals

§ 250-66. Establishment.

Pursuant to § 7-712 of the Village Law of the State of New York, there shall be a Zoning Board of Appeals consisting of five members, and two alternates each to be appointed for a term of five years by the Board of Trustees. The Zoning Board of Appeals shall select a Chairperson and a Secretary from its own membership. The Zoning Board of Appeals already established shall continue to function under the provisions of this chapter, and the members thereof may continue in office until their respective terms expire. No member of the Zoning Board of Appeals shall be a member of the Board of Trustees. Any vacancy occurring during any term shall be filled by the Village Board of Trustees for the unexpired term only.

§ 250-67. Procedure.

- A. Rules of procedure. Procedure on all appeals, petitions and other matters before the Zoning Board of Appeals shall be governed by the provisions of Village Law and by such rules of procedure as may be officially adopted by the Board.
- B. Written appeals. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, and shall be accompanied by the required fee in accordance with the schedule of fees of the Village of Hillburn.
- C. Specific basis for appeal. Every appeal or application shall include a copy of the specific provisions of the local law or ordinance involved and shall exactly set forth the interpretation that is claimed, the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted.
- D. Obtaining consent. Under no circumstances shall the Board require any applicant or appellant appearing before it to obtain the signature or consent of any person, whether or not residing or having property in the vicinity of the property described in the application or appeal, as a condition of Board approval.

§ 250-68. Powers and duties.

- A. The Zoning Board of Appeals shall perform all the duties and have all the power prescribed by Village Law and by this chapter, and specifically the following:
 - (1) Hear and decide appeals from and review any order, requirement, decision or determination of the Code Enforcement Officer.
 - (2) Hear and decide all matters referred to it by the Code Enforcement Officer.
 - (3) Decide any question involving the interpretation of any provision of this chapter, including the location of a district boundary line on the Zoning Map.
- B. In exercising the above-mentioned powers and duties, the Zoning Board of Appeals may, in conformity with Village Law, reverse, affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal is made. The concurring vote of a majority of the entire Zoning Board of Appeals, namely, an affirmative vote of at least three members, shall be

necessary in order to reverse a decision of the Code Enforcement Officer or authorize a variance from the terms of this chapter.

- C. The Board may employ such clerical or other assistance as may be necessary, provided that it shall not at any time incur expense beyond the amount of the appropriation made and then available for that purpose.

§ 250-69. Referral to Village Planning Board.

The Zoning Board of Appeals may transmit to the Chairperson of the Village Planning Board a copy of any appeal or application. The Village Planning Board may submit to the Zoning Board of Appeals an advisory opinion on said appeal or application at any time prior to the public hearing, and such opinion, if submitted, shall be made known to the public at such hearing and made part of the official record thereof.

§ 250-70. Referral to Rockland County Department of Planning.

- A. Matters to be referred. In accordance with § 239 et seq. of the General Municipal Law of the State of New York, any application for a variance for real property lying within a distance of 500 feet of the following shall be referred to the Rockland County Department of Planning not less than 35 days prior to a public hearing.

- (1) The boundary of any other municipality.
- (2) The boundary of any existing or proposed County or state park or other recreation area.
- (3) The right-of-way of any existing or proposed County or state parkway, thruway, expressway, road or highway.
- (4) The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
- (5) The existing or proposed boundary of any County- or state-owned land in which a public building or institution is situated.
- (6) The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

- B. Rockland County Department of Planning recommendation. Failure of the Rockland County Department of Planning to report its recommendations within 30 days after receipt of a full statement of such referred material or such longer period as may have been agreed upon by it and the Zoning Board of Appeals shall be construed as approval.
- C. Effect of negative report. If the Rockland County Department of Planning disapproves the proposed variance or recommends modification thereof, the proposal shall not become effective except by a vote of a majority plus one of all members of the Zoning Board of Appeals and after adoption by the Board of a resolution fully setting forth the reasons for such contrary action.
- D. Report filing. A report of the decisions of the Zoning Board of Appeals shall be filed with the Rockland County Department of Planning if referral was initially required.

§ 250-71. Public hearing.

- A. Prior to taking action on any matter relating to this chapter, a public hearing shall be held after public notice in the manner provided by § 7-712 of the Village Law, and no action shall be taken respecting such matter until all interested parties present at the hearing shall have been given an opportunity to be heard.
- B. Public hearing notice. For any public hearing that is required to be held by the Zoning Board of Appeals, the following procedures shall apply with regard to public notices:
 - (1) The Zoning Board of Appeals shall mail notice of said hearing to the applicant at least ten (10) days prior to the hearing.
 - (2) The Zoning Board of Appeals shall cause public notice of said hearing to be published in a newspaper of general circulation in the Village at least five (5) days prior to the date thereof.
 - (3) The Applicant shall transmit a notice of the public hearing via certified mail to the record owner of each property within 200 feet of the property for which the public hearing is being heard.
 - (4) Notice of the public hearing shall be sent via first class mail no less than seven (7) calendar days prior to the date on which the public hearing is opened.
 - (5) The Applicant shall provide a certificate of mailing prior to the public hearing being opened.
 - (6) The cost of all mailings and publishing of the notice shall be borne by the Applicant.

§ 250-72. Decisions.

- A. The final disposition of any matter by the Board shall require the concurring vote of a majority of the entire Board; except, however, that variance requests for which the Rockland County Department of Planning issued a negative report shall require a concurring vote of a majority plus one of the entire Board. Every decision of the Zoning Board of Appeals shall set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based.
- B. All the provisions of this chapter relating to the Zoning Board of Appeals shall be strictly construed; the Board, as a body of limited jurisdiction, shall act in conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained herein; provided, however, that no applicant or appellant who shall substantially observe the procedural requirements set forth in this chapter shall be deprived of the right of application or appeal.

§ 250-73. Minutes and records.

The Secretary shall keep minutes of the Board's 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 official actions filed under property owner's name and lot and block number, with case number, if any, together with all documents pertaining thereto. Every rule, regulation, order, requirement, decision or determination of the Board shall immediately be filed in the office of the Village Clerk and shall be a public record.

§ 250-74. Variances.

- A. Power of Zoning Board of Appeals. Where strict application of any of the requirements of this chapter, in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional

physical conditions, would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his land or building, but in no other case, the Zoning Board of Appeals shall have the power in passing upon appeals to grant a variance to any of the regulations or provisions of this chapter relating to the area, bulk, construction or alteration of building or structures, or the use of land and buildings, so that the spirit of this chapter shall be observed, public health, safety and welfare secured and substantial justice done. In no case shall the granting of a variance include site plan or subdivision approval by the Zoning Board of Appeals.

- B. Granting of variance. A variance shall be granted by the Zoning Board of Appeals only if it finds:
- (1) That there are special physical conditions, such as exceptional narrowness, shallowness, shape, topographic or subsurface conditions, or other extraordinary or exceptional situations or conditions fully described in the findings, applying to the particular land or building for which the variance is sought and that said circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant or any predecessor in title or interest and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - (2) In granting of any variance, the Zoning Board of Appeals shall prescribe such conditions that it deems to be necessary or desirable to assure that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or property values therein, will not change the character of the neighborhood, or be otherwise detrimental to the public welfare.
 - (3) In no case shall a variance be granted solely for reason of additional financial gain on the part of the owner of the land or building involved.
 - (4) Unless work is commenced and diligently pursued within six months of the date of granting of a variance, the variance shall become null and void. Upon application, and for good reason shown, the Zoning Board of Appeals may extend the validity of the approval by not more than two consecutive periods of three months from the date of original approval.
- C. Area variance. Where because of practical difficulty an applicant requests a variance of the lot area or other dimensional requirements of this chapter, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that, as a condition to the grant of any such variance, the Board shall make a specific finding that the application of the requirements of this chapter to the land in question creates such practical difficulty. 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 preserve and protect the character of the neighborhood and the health, safety and welfare of the community. In making its determination, the ZBA shall make each and every one of the following findings:
- (1) whether 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;
 - (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(5) whether the alleged difficulty was self- created; which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance.

D. Use variances. Where because of unnecessary hardship relating to the land an applicant desires to utilize land for a use not allowed in the district in which the land is located, the Board may grant a use variance. The ZBA, 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. The ZBA shall make each and every one of the following findings:

(1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) that the alleged hardship has not been self-created.

§ 250-75. Appeals from decisions of the ZBA.

Pursuant to § 7-712 of the Village Law, an appeal under the provisions of Article 78 of the Civil Practice Law from a decision of the Zoning Board of Appeals must be instituted within 30 days following the date of filing of such decision in the office of the Village Clerk.

Article XV Amendments

§ 250-76. Procedure.

The Board of Trustees may from time to time on its own motion, or on petition of taxpayers, or on recommendation of the Planning Board, after public notice and hearing, amend, supplement, modify or repeal in whole or in part this chapter or the boundary of any district established by this chapter by local law

§ 250-77. Planning Board report.

Any such proposed change in text or zoning district boundary shall be referred to the Planning Board for a written report and recommendations prior to public hearing thereon by the Village Board. Failure of the Planning Board to make such report within 45 days after receiving notice from the Village Clerk of such proposed change shall be deemed to be a favorable recommendation. In preparing a report on a proposed amendment, the Planning Board shall consider:

- A. Whether such change is consistent with the objectives and purposes of the officially adopted Master Plan of the Village, if one exists, and with those of the district(s) that would be affected; and
- B. The effect of the change on existing or heretofore proposed public facilities and services such as schools, streets, utilities, etc.

§ 250-78. Referral to Rockland County Department of Planning.

A. In accordance with § 239 et seq. of the General Municipal Law of the State of New York, any proposal for a change in the district classification of, or the regulations applying to, real property lying within a distance of 500 feet of the following shall be referred to the Rockland County Department of Planning not less than 35 days prior to a public hearing:

- (1) The boundary of any other municipality.
 - (2) The boundary of any existing or proposed County or state park or other recreation area.
 - (3) The right-of-way of any existing or proposed County or state parkway, thruway, expressway, road or highway.
 - (4) The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
 - (5) The existing or proposed boundary of any County- or state-owned land on which a public building or institution is situated.
- B. Rockland County Department of Planning recommendation. Failure of the Rockland County Department of Planning to report its recommendations within 30 days after receipt of a full statement of such referred material or such longer period as may have been agreed upon by it and the Village Board of Trustees shall be construed as approval.
- C. Effect of negative report. If the Rockland County Department of Planning disapproves the proposed amendment, or recommends modification thereof, the proposed amendment shall not become effective except by a vote of a majority plus one of all members of the Board of Trustees and after adoption by the Board of a resolution fully setting forth the reasons for such

contrary action.

- D. Response to the Rockland County Department of Planning. Within seven days of final action by the Board of Trustees on any matter referred to and reported on by the Rockland County Department of Planning, the Board of Trustees shall file a report on such action with the Rockland County Department of Planning.

§ 250-79. Notice and public hearing.

- A. The Board of Trustees shall conduct a public hearing on all proposed amendments as provided by law. The Village Clerk shall cause notice of such hearing to be given by the Village in the case of all amendments initiated by the Board of Trustees or by the applicant in the case of an amendment initiated by petition. The notice shall be published in the official newspaper of the Village at least 15 days prior to the hearing date and shall specify the nature of any proposed amendment, the land or district(s) affected, and the date and place of the public hearing. Upon written notification, each applicant shall be present or duly represented at any meetings and public hearing concerning determination of the application.
- B. Upon approval of any amendment by the Board of Trustees, copies thereof shall be transmitted by the Village Clerk to the Planning Board, the Zoning Board of Appeals, and the Rockland County Department of Planning.
- C. Publication and posting. Every zoning chapter and every amendment thereto, including any map incorporated therein, adopted pursuant to § 7-706 of the Village Law of the State of New York, shall be entered in the minutes of the Board of Trustees, and a copy thereof, exclusive of any map incorporated therein, shall be published once in the official newspaper, and a copy of such local law or amendment together with a summary or abstract of any map incorporated therein shall be posted conspicuously at or near the main entrance to the office of the Village Clerk, and affidavits of the publication and posting thereof shall be filed with the Village Clerk.
- D. Fee. Every petition for amendment or change in this chapter shall be accompanied by a fee in an amount established by the Board of Trustees to help defray the cost of advertising and of such technical studies or professional assistance as may be necessary.

Article XVI

Severability; Repealer

§ 250-80. Severability.

In the event that a court of competent jurisdiction determines that any provision of this law shall be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other provision of this law, which shall remain in full force and effect. Should this chapter be decided by a court of law to be unconstitutional or invalid in its entirety, the zoning chapter adopted on July 17, 1968, with all amendments, shall be deemed to have remained in effect.

§ 250-81. Repealer.

The following regulations are hereby repealed: An ordinance entitled "Hillburn Zoning Ordinance," originally adopted July 17, 1968, and all amendments thereof; Chapter 110 of the Village of Hillburn Village Code, entitled "Excavations and Topsoil Removal," adopted May 19, 1952 and all amendments thereof. Such repeal shall not be construed as abating any action now pending under or by virtue of said ordinance; or as discontinuing, abating or modifying or altering any penalty accruing or to accrue; or as affecting the liability of any person, firm or corporation; or as waiving any right of the Village of Hillburn, under any section or provision existing at the time of passage of this comprehensive amendment; or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the Village of Hillburn.

Table A
Schedule of General Use and Bulk Requirements

OS Open Space Zoning District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (square ft)	Lot Width (ft)	Front Yard (ft)	One Side Yard (ft)	Total Side Yard (ft)	Rear Yard (ft)	Stories	Feet			
Parks, playgrounds	P	240,000	200	75	50	125	100	2 ½	35	10	.10	
Public utility distribution and transmission lines and rights-of-way serving immediate neighborhood	P	240,000	200	75	50	125	100	2 ½	35	10	.10	
Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	240,000	200	75	50	125	100	2 ½	35	10	.10	
Accessory Use Incidental to a Principal Use			If detached building or structure, minimum distance to:									
			Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)					
Storage of utility, recreational, or commercial vehicle	A		N/A	N/A	N/A	N/A	N/A	N/A	N/A			
Signs	A		Refer to Article VII									
Off-street Parking	A		Refer to Article VIII									
P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required												

Table A
Schedule of General Use and Bulk Requirements

R-60 Residence Zoning District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (square ft)	Lot Width (ft)	Front Yard (ft)	One Side Yard (ft)	Total Side Yard (ft)	Rear Yard (ft)	Stories	Feet			
One-family detached residence	P	60,000	150	50	40	100	75	2 ½	35	10	.10	
Parks, playgrounds	P	60,000	200	75	50	125	100	2 ½	35	10	.10	
Public utility distribution and transmission lines and rights-of-way serving immediate neighborhood	P	60,000	200	75	50	125	100	2 ½	35	10	.10	
Place of worship	SU/SP	60,000	200	75	50	125	100	2 ½	35	10	.10	
Community facilities	SU/SP	60,000	200	75	50	125	100	2 ½	35	10	.10	
Fire, police, ambulance and similar municipal buildings	SU/SP	60,000	200	75	50	125	100	2 ½	35	10	.10	
Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	60,000	200	75	50	125	100	2 ½	35	10	.10	
Public utility substation	SU/SP	60,000	200	75	50	125	100	2 ½	35	10	.10	
Animal sanctuary	SU/SP	3 acres	200	75	50	125	100	2 ½	35	10	.10	
Accessory Use Incidental to a Principal Use			If detached building or structure, minimum distance to:									
			Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)					
Outdoor pet storage area	A		15	50	50	50	50	1	15			
Existing on-site potable water and septic systems	A		Per NYSDOH Regulations									
Garden shed, barns, greenhouses and similar accessory buildings	A		15	50	30	30	25	1	15			
Private garage	A		15	50	30	30	25	1	15			
Storage of utility, recreational, or commercial vehicle	A		N/A	N/A	N/A	N/A	N/A	N/A	N/A			
Signs	A		Refer to Article VII									
Swimming pool	SU		Refer to 250-53.A.									
Home occupation, major	SU		Same as principal dwelling									

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

R-9 Residence Zoning District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet			
One-family detached residence	P	9,000	90	25	10	30	30	2 ½	35	25	.20	
Parks, playgrounds	P	22,000	125	35	25	60	50	2 ½	35	25	.20	
Public utility distribution and transmission lines and rights-of-way serving immediate neighborhood	P	22,000	125	35	25	60	50	2 ½	35	25	.20	
Two-family residence	SU/SP	12,000	120	25	15	40	35	2 ½	35	25	.20	
Place of worship	SU/SP	22,000	125	35	25	60	50	2 ½	35	25	.20	
Assisted living facility	SU/SP	2 acres	125	50	50	100	50	3	40	50	.5	
Community facilities	SU/SP	22,000	125	35	25	60	50	2 ½	35	25	.20	
Fire, police, ambulance and similar municipal buildings	SU/SP	22,000	125	35	25	60	50	2 ½	35	25	.20	
Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	22,000	125	35	25	60	50	2 ½	35	25	.20	
Public utility substation	SU/SP	22,000	125	35	25	60	50	2 ½	35	25	.20	
Accessory Use Incidental to a Principal Use				If detached building or structure, minimum distance to:								
				Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)				
Outdoor pet storage area	A		10	50	50	50	50	1	15			
Garden shed, barns, greenhouses and similar accessory buildings	A		10	25	10	5	5	1	10			
Private garage	A		10	25	10	5	5	1	15			
Off-street parking	A		Refer to Article VIII									
Storage of utility, recreational, or commercial vehicle	A		N/A	N/A	N/A	N/A	N/A	N/A	N/A			
Signs	A		Refer to Article VII									
Swimming pool	SU		Refer to 250-53.A.									
Home occupation, major	SU		Same as principal dwelling									
Nursery school accessory to a community facility or place of worship	SU/SP		N/A	N/A	N/A	N/A	N/A	N/A	N/A			

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

R-6 Residence Zoning District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet			
One-family detached residence	P	6,000	50	25	10	20	30	2 ½	35	25	.20	
Parks, playgrounds	P	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility distribution and transmission lines and rights-of-way serving immediate neighborhood	P/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Two-family residence approved prior to March 1, 1988.	SU	8,000	50	25	10	20	30	2 ½	35	25	.20	
Place of worship	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Community facilities	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Fire, police, ambulance and similar municipal buildings	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility substation	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Accessory Use Incidental to a Principal Use		If detached building or structure, minimum distance to:										
		Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)						
Outdoor pet storage area	A		10	50	50	50	50	1	15			
Garden shed, barns, greenhouses and similar accessory buildings	A		10	25	10	5	5	1	15			
Private garage	A		10	25	10	5	5	1	15			
Off-street parking	A		Refer to Article VIII									
Storage of utility, recreational, or commercial vehicle	A		N/A	N/A	N/A	N/A	N/A	N/A	N/A			
Signs	A		Refer to Article VII									
Swimming pool	SU		Refer to 250-53.A.									
Home occupation, major	SU		N/A	N/A	N/A	N/A	N/A	N/A	N/A			
Nursery school accessory to a community facility or place of worship	SU/SP		N/A	N/A	N/A	N/A	N/A	N/A	N/A			

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

LS Local Shopping Zoning District											
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet		
Antique shop	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Art gallery	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Bank	SU/SP	20,000	125	25	20	40	25	2	25	50	.3
Bar	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Craft Workshop or Studio	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Commercial recreation, indoor	SU/SP	40,000	200	35	50	100	50	2	25	50	.25
Deli	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Dry-cleaning depot	SU/SP	10,000	75	25	20	40	25	2	25	35	.15
Farm Market	SU/SP	10,000	75	25	20	40	25	2	25	35	.15
General store	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Grocery store	P/SP	40,000	200	35	50	100	50	2	25	50	.25
Health fitness facility	P/SP	40,000	200	35	50	100	50	2	25	50	.25
Laundromat	SU/SP	10,000	75	25	20	40	25	2	25	35	.15
Museum	SU/P	20,000	125	25	20	40	25	2	25	50	.25
Office, professional	P/SP	20,000	125	25	20	40	25	2	25	50	.25
Office, medical	P/SP	20,000	125	25	20	40	25	2	25	50	.25
Personal service	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Restaurant, sit down	P/SP	15,000	100	25	25	50	25	2	25	40	.20
Restaurant, take out	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Retail	P/SP	10,000	75	25	20	40	25	2	25	35	.15
shopping center, designed	SU/SP	40,000	200	35	50	100	50	2	25	50	.25
Accessory Use Incidental to a Principal Use						If detached building or structure, minimum distance to:					
						Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)	
Off-street parking	A	Refer to Article VIII									
Off-street loading	A										
Signs	A	Refer to Article VII									
Outdoor storage	A/SU/SP										

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

GC General Commercial Zoning District											
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet		
Automotive garage	SU/SP	15,000	100	25	25	50	25	2	25	40	.20
Building contractor	SU/SP	15,000	100	25	25	50	25	2	25	40	.20
commercial recreational use, indoor	SU/SP	40,000	200	35	50	100	50	2	25	50	.25
Concrete mixing facility	SU/SP	120,000	200	35	75	75	35	2	25	50	.2
Deli	P/SP	10,000	75	25	20	40	25	2	25	35	.15
Drycleaning depot	P/SP	40,000	200	35	50	100	50	2	25	50	.25
Health fitness facility	P/SP	40,000	200	35	50	100	50	2	25	50	.25
Laboratory and research facility	SU/SP	40,000	200	35	50	100	50	2	25	50	.25
Landscape materials, retail and wholesale trade	SU/SP	15,000	100	25	25	50	25	2	25	40	.20
Light industry	SU/SP	40,000	200	35	50	100	50	2	25	50	.25
Microbrewery	SU/SP	15,000	100	25	25	50	25	2	25	40	.20
Office, business	P/SP	20,000	125	25	20	40	25	2	25	50	.25
Office, professional	P/SP	20,000	125	25	20	40	25	2	25	50	.25
Office, medical	P/SP	20,000	125	25	20	40	25	2	25	50	.25
Public utility distribution and transmission lines and rights-of-way serving immediate neighborhood	P/SP	22,000	125	35	8	20	30	2 ½	35	25	.20
Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20
Public utility substation	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20
Wholesale or warehouse use	SU/SP	40,000	200	35	50	100	50	2	25	50	.25
Woodworking and metalworking	SU/SP	15,000	100	25	25	50	25	2	25	40	.20
Accessory Use Incidental to a Principal Use				If detached building or structure, minimum distance to:							
				Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)			
Off-street parking	A					Refer to Article VIII					
Off-street loading	A										
Signs	A					Refer to Article VII					
Outdoor storage	A/SU/SP										

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

RED Regional Economic Development Zoning District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet			
Antique shop	P/SP	10,000	75	25	20	40	25	2	25	35	.15	
Art gallery	P/SP	10,000	75	25	20	40	25	2	25	35	.15	
Bus depot	SU/SP	80,000	200	50	50	100	50	3	45	50	.25	
Commercial Recreational Use, indoor	SU/SP	40,000	200	35	50	100	50	2	25	50	.25	
Conference center	SU/SP	80,000	200	50	50	100	50	3	45	50	.25	
Cultural and performing arts center	SU/SP	80,000	200	50	50	100	50	3	45	50	.25	
Day spa	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Health fitness facility	P/SP	40,000	200	35	50	100	50	2	25	50	.25	
Hotel, resort	SU/SP	80,000	200	50	50	100	50	3	45	50	.25	
Museum	SU/SP	80,000	200	50	50	100	50	3	45	50	.25	
Office, medical	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Office, professional	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Restaurant, sit down	P/SP	15,000	100	25	25	50	25	2	25	40	.20	
Shopping center, designed	SU/SP	40,000	200	35	50	100	50	2	25	50	.25	
Tourism-related retail	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Tourism-related winery, brewery, distillery or similar food processing	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Public utility distribution, transmission lines and rights-of-way serving immediate neighborhood	P/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility distribution, transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility substation	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Accessory Use Incidental to a Principal Use			If detached building or structure, minimum distance to:									
			Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)					
Off-street parking	A		Refer to Article VIII									
Off-street loading	A											
Signs	A		Refer to Article VII									
Outdoor storage	A/SU/SP											

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

LI Light Industry Zoning District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet			
Building contractor	SU/SP	15,000	100	25	25	50	25	2	25	40	.20	
Commercial recreational use, indoor	SU/SP	40,000	200	35	50	100	50	2	25	50	.25	
Health fitness facility	P/SP	40,000	200	35	50	100	50	2	25	50	.25	
Laboratory and research facility	SU/SP	40,000	200	35	50	100	50	2	25	50	.25	
Landscape materials, retail and wholesale trade	SU/SP	15,000	100	25	25	50	25	2	25	40	.20	
Light industry	SU/SP	40,000	200	35	50	100	50	2	25	50	.25	
Office, business	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Office, professional	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Office, medical	P/SP	20,000	125	25	20	40	25	2	25	50	.25	
Public utility distribution and transmission lines and rights-of-way serving immediate neighborhood	P/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility distribution and transmission lines and rights-of-way not serving the immediate neighborhood	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Public utility substation	SU/SP	22,000	125	35	8	20	30	2 ½	35	25	.20	
Wholesale or warehouse use	SU/SP	40,000	200	35	50	100	50	2	25	50	.25	
Accessory Use Incidental to a Principal Use				If detached building or structure, minimum distance to:								
				Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)				
Off-street parking	A	Refer to Article VIII										
Off-street loading	A											
Signs	A	Refer to Article VII										
Outdoor storage	A/SU/SP											

P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required

Table A
Schedule of General Use and Bulk Requirements

VC Village Center Overlay District												
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio	
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet			
Delicatessen	SU/SP	6,000	50	25	10	20	30	2 ½	35	25	.20	
General store	P/SP	6,000	50	25	10	20	30	2 ½	35	25	.20	
Craft workshop or art studio	P/SP	6,000	50	25	10	20	30	2 ½	35	25	.20	
United States Postal Office	P/SP	6,000	50	25	10	20	30	2 ½	35	25	.20	
Multiple family residences in existence on the effective date of this zoning law	P	8,000	50	25	10	20	30	2 ½	35	25	.20	
Accessory Use Incidental to a Principal Use				If detached building or structure, minimum distance to:								
			Principal building (ft)	Front street (ft)	Side Street (ft)	Exterior side lot line (ft)	Rear lot line (ft)					
Private garage	A		10	25	10	5	5	1	15			
Off-street parking	A		Refer to Article VIII									
Storage of utility, recreational, or commercial vehicle	A		N/A	N/A	N/A	N/A	N/A	N/A	N/A			
Signs	A		Refer to Article VII									
P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required Refer to Section 250-14 of the Zoning Chapter.												

TOD Transit Oriented Development Overlay District											
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet		
Refer to Section 250-15 of the Zoning Chapter.											
P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required											

Table A
Schedule of General Use and Bulk Requirements

RP Ridgeline Protection Overlay District											
Principal Use	Use Type	Minimum:						Maximum Building Height		Maximum Lot Coverage (%)	Maximum Floor Area Ratio
		Lot Area (Square Ft)	Lot Width (Ft)	Front Yard (Ft)	One Side Yard (Ft)	Total Side Yard (Ft)	Rear Yard (Ft)	Stories	Feet		
Refer to Section 250-16 of the Zoning Chapter.											
P = Permitted by Right SU = Special Use Permit Approval Required A = Accessory Permitted by Right SP = Site Plan Approval Required											

Village of Hillburn Rockland County, NY

Zoning Map

Legend

Zoning District

- OS, Open Space
- R-60, Rural Residence (60,000 SF)
- R-9, Low Density Residence (9,000 SF)
- R-6, Medium Density Residence (6,000 SF)
- GC- General Commercial
- LS- Local Shopping
- RED- Regional Economic Development
- LI- Light Industrial

- Ridgelines
- Ridgeline Protection Overlay
- Transit Oriented Development Overlay
- Village Center

Date of Adoption: 1/14/20

Source: ESRI Web Mapping Service;
Rockland County GIS
Scale: 1 inch = 1,023 feet

