

# VILLAGE OF PAINTED POST ZONING LAW

Originally Adopted July, 1984

Revised Version Adopted August 12, 2019

First Revised Version Adopted February 12, 2001

Revised to Include Adult Uses Adopted November 12, 2001

Revised to Include Planned Development Districts Adopted February 9, 2004

Revised to Include Amendments to the Sign Regulations Adopted August 9, 2010

Revised to Include Amendments to the Sign Regulations Adopted October 15, 2013

Revised to Include Amendments to Parking & Mixed-Use Regulations Adopted August 11, 2014

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**CHAPTER 280**  
**ZONING LAW**  
**Village of Painted Post**

**ARTICLE I**  
**TITLE AND PURPOSE**

**§ 280.1      TITLE AND PURPOSE**

The following is a law duly adopted by the Village Board of Trustees of the Village of Painted Post, Steuben County, New York on July 9, 1984, subsequently amended and most recently revised on August 12, 2019, to wit:

- A. **CONTENT.** A LAW to promote the health, safety, morals and general welfare of the Village of Painted Post; regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes; creating districts for said purposes, and establishing the boundaries thereof; establishing a Zoning Board of Appeals to determine and vary the application of such regulations and restrictions in harmony with their general purposes and intent, and in accordance with general and specific rules herein contained; and providing for the enforcement of such law;
- B. **PURPOSE.** IN PURSUANCE of authority conferred by Article 7-A of the Village Law of the State of New York, and in accordance with a comprehensive plan designed to lessen congestion in the streets and highways, to secure safety from fire, flood, panic and other dangers; to promote health and general welfare, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of property, and encouraging the most appropriate use of land throughout the Village.

It is recognized that certain conditions exist throughout the Village which are not in conformance with various sections of this Law. It is the intent that these non-conforming conditions not be perpetuated and that as changes occur, they be corrected to the extent possible to move toward conformity.

This Law shall be known and may be cited as the Zoning Law of the Village of Painted Post.

- § 280.2      (Reserved)**
- § 280.3      (Reserved)**
- § 280.4      (Reserved)**
- § 280.5      (Reserved)**
- § 280.6      (Reserved)**

## **ARTICLE II**

### **INTERPRETATION AND DEFINITIONS**

#### **§ 280.7      INTERPRETATION AND APPLICATION**

- A. **LEGISLATIVE INTENT.** In their interpretation and application, the provisions of this Zoning Law shall be held to be minimum requirements adopted to achieve the intent of this Law as set forth in Article I.
- B. **ANNULMENT OF PREVIOUS ORDINANCES.** This Zoning Law shall annul and supersede any previously adopted zoning laws and ordinances of the Village of Painted Post.
- C. **NON-INTERFERENCE AND PRECEDENCE.** Except as noted in Section 280.7B of this Law, this Zoning Law shall not interfere with, abrogate, annul, or repeal any ordinance or any rule, regulation, or permit previously or hereafter enacted, adopted, or issued pursuant to law; provided that, unless specifically excepted, where this Zoning Law imposes greater restrictions its provisions shall control.
- D. **SEPARATE VALIDITY.** If any section, subsection, paragraph, clause, or other provisions of this Law shall be held to be invalid, the invalidity of such section, subsection, paragraph, clause, or other provision shall not affect any of the other provisions of this Law.
- E. The following rules of construction of language shall apply to the text of this Law.
1. Words used in the present tense include the future tense.
  2. Words used in the singular include the plural, and words used in the plural include the singular.
  3. The word “lot” includes the word “plot” or “parcel.”
  4. The word “person” includes an individual, firm or corporation.
  5. The word “shall” is always mandatory; the word “may” is always permissive.
  6. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
  7. A “building” or “structure” includes any part thereof.
  8. The phrases, “to erect,” “to construct,” and “to build” a building, all have the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.

#### **§ 280.8      DEFINITIONS**

The words or phrases as used in this Law are defined as follows:

ACCESSORY BUILDING: See “BUILDING, ACCESSORY.”

ACCESSORY USE: See “USE, ACCESSORY.”

**ADULT USE AND ENTERTAINMENT ESTABLISHMENTS** - A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or serving; topless hair care or massages; service or entertainment where the servers or entertainers wear only pasties or G-strings or both or nothing; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age.

**AGRICULTURE, FOR CROPS:** Any parcel of land used commercially for the raising of fruits, vegetables and the like, but not for the raising or keeping of animals.

**AGRICULTURE, MANUFACTURE:** Any parcel of land used for the processing of crops and livestock, such as a cheese factory, tannery, food processing, and the like.

**AGRICULTURE, NURSERY:** A wholesale or retail business which sells primarily trees, shrubs, plants and other landscaping materials and may sell related lawn and garden supplies and ornaments as an accessory use.

**AMUSEMENT ARCADE OR GAME ROOM:** Any premises or arcade operated by any person, corporation, or legal entity, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing "amusement devices" to the public at retail, and/or any premises operated by any person, corporation, or other legal entity, which is the owner, lessee, or occupant of a building the majority of whose gross receipts are derived from the providing "amusement devices" to the public at retail.

**AMUSEMENT DEVICE:** Any machine, game or device, intended or used as a test of skill or entertainment, and may be operated by the manipulation of buttons, dials, trigger devices or electrical impulses upon the insertion of a coin, token or the use of which is made available for any valuable consideration; and such amusement device shall include, but not be limited to, devices commonly known as pinball machines, video games, electronic games, pool or billiard tables and all games or operations similar thereto under whatever name they may be indicated. Such definition does not include a bowling alley, a juke box or other coin operated music machine or a mechanical amusement riding device.

**ANIMALS, RAISING OR KEEPING OF:** Any parcel of land used for the raising of animals for commercial purposes, including livestock, horses, poultry, dairy cattle, bees, fur-bearing animals, and other such farm animals, OR for the raising and keeping of wild animals including poisonous animals, skunks, pigeons, fox, mink, birds and the like, BUT excluding pets and kennels.

**ALTERATION:** As applied to a building or structure, a change or rearrangement in the structural parts or existing facilities of such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location to another.

**ANTENNA:** A system of electrical conductors that transmit or receive telephone, television or radio frequency waves. Such devices shall include cellular, paging and personal communication services (PCS) and satellite dishes.

**AQUIFER:** An underground water bearing volume of permeable rock, sand or gravel.

**AREA, BUILDING:** The total of covered areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of terraces, and uncovered steps.

**ATTIC:** That space in a building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as a half story in determining the permissible number of stories. (Also see “STORY, HALF”).

**AUTOMOBILE SALES AREA:** A premises, including open areas other than a street or road and showrooms enclosed within a building, used for the storage, display or sale of new or used automobiles, trucks and cargo trailers.

**AZIMUTH:** The angular distance between true north and the point on the horizon directly below the sun. Values to the east of south (in the morning) shall be negative. Values to the west or south (in the afternoon) shall be positive.

**BASEMENT:** A story partly below finished grade but having at least one-half of its height measured from floor to ceiling, but no less than four feet, above average finished grade. A basement shall be counted as one story determining the height of a building in stories. (Also see “CELLAR”).

**BIORETENTION:** A system or structure which removes sedimentation from stormwater runoff. Stormwater is collected within the structure or basin and treated by a variety of physical, chemical and biological processes.

**BUILDING:** Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel. A building includes attached deck(s) and porch(es).

**BUILDING, ACCESSORY:** A building detached from and subordinate to a principal building and used for purposes customarily incidental to those of the principal building. For example, a garage for one or two cars is permitted wherever residences (the principal use) are allowed.

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

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

**BUILDING, SEMI-DETACHED:** A building attached by a party wall to another building normally of the same type on another lot but having one side yard.

**BUILDING GROUP:** A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

**BUILDING HEIGHT:** The vertical distance measured from the average finished grade to the highest point of such building or structure.

**BUILDING LINE:** The rear line of the required front yard setback.

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

**BUILDING, SEMI-DETACHED:** A building attached by a party wall to another building normally of the same type on another lot but having one side yard. See “HOUSING, NON-TRANSIENT.”

**BULK:** A term used to describe size, volume, area, and shape of buildings and structures. Included in such description is the physical relationship of exterior walls or a building or structures location to lot lines, other buildings and structures or other walls of the same building. All open spaces required in connection with a building, other structure or tract of land are also included in this term.

**BULK, NONCONFORMING:** That part of a building, other structure or tract of land which was lawfully existing prior to the adoption or amendment of this chapter but which does not conform to one (1) or more of the applicable building regulations of this Zoning Law by reason of such adoption or amendment.

**CARRIER:** A provider of communications service.

**CELLAR:** Any space in a building the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building. A cellar shall not be counted in determining the permissible number of stories. A cellar shall not be occupied as a dwelling unit. (Also see “BASEMENT”).

**CLUB, MEMBERSHIP:** An organization catering exclusively to members and their guests, or premises and buildings for social, educational, recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required generally for the purposes of such club.

**CO-LOCATION:** The use of a communications tower by more than one carrier.

**COMMERCIAL VEHICLE:** A vehicle of more than one and one-half ton capacity used for the transportation of persons or goods primarily for gain; or a vehicle of any capacity carrying any sign or lettering of a commercial nature exceeding one square foot in area.

**COMMUNICATIONS TOWER:** A structure on which transmitting and/or receiving antennae are located. This includes but is not limited to freestanding towers, guyed towers, monopoles, and similar structures.

A. **FREESTANDING COMMUNICATIONS TOWER** - Freestanding lattice tower onto which antennas are affixed.

B. **GUYED TOWER** - Lattice tower supported by wire anchors.

C. **MONOPOLE** - A single pole of variable cross section onto which antennas are affixed.

**COMMUNITY POLE:** A sign owned and maintained by the Village Board or by a group of business owners as approved by the Village Planning Board and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the Village. Includes “monument sign.”

**CONSERVATION LAND:** Land owned by a public body, land trust, conservation organization, or other group for the purpose of the protection of natural resources or scenic, cultural, historic or archeological values, the provision of open space, and/or for passive recreational use and which is permanently restricted from development or intensive use and protected in perpetuity in a substantially undeveloped state by legally binding arrangements.

**CONTIGUOUS PARCEL:** A tract of land under the control of the applicant or his agent that is not divided by any natural or manmade barriers such as existing roads, highways, railroad tracks, areas with slopes greater than thirty-five (35%), and rivers, and that is not totally bisected by any other water bodies.

**CONTRACTOR’S YARD:** Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery, or vehicles, or parts thereof, which are in active use by a construction contractor.

**COVERAGE:** That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures, but not including detached solar collectors used by solar energy systems.

**DARK SKY LIGHTING:** A type of light fixture aimed to minimize the amount of light pollution and approved by the International Dark Sky Association (IDA) through a series of requirements (i.e. maximum wattage limits). Such lights maximize the natural dark sky appearance while minimizing the light reflected onto nearby properties.

**DAY CARE CENTER:** A facility duly permitted by the New York State Office of Children and Family Services or successor for the care of three (3) or more persons away from their homes for more than three (3) but less than twenty-four (24) hours each day with or without compensation. This definition includes children’s day care center and “adult day care center.” A DAY CARE CENTER is also a facility providing day care services under an operating certificate issued by the NYS Department of Mental Health or successor. This does not include “family day care,” “nursery school,” or “day camp” as defined by the New York State Sanitary Code, a school program operated for the primary purpose of religious education, or a facility operated by a public school district.

**DAY CARE, FAMILY HOME:** A one family dwelling in which day care is provided for persons in accordance with NYS Office of Children and Family Services or successor definitions and regulations.

**DISTRIBUTOR:** The person, entity or agent or representative thereof responsible for placing and maintaining a news rack in a public right-of-way including, without limitation, the grassed or paved curb area and sidewalks.



**DISTRICT HEATING & COOLING SYSTEMS:** A system in which steam, hot water or chilled water is produced at a central plant that is then delivered to individual buildings for space heating, domestic hot water heating, and air conditioning.

**DRIVE-IN MOVIE:** An open lot or part thereof, which appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

**DWELLING, ONE-FAMILY:** See “HOUSING, NON-TRANSIENT.”

**DWELLING, TWO-FAMILY:** See “HOUSING, NON-TRANSIENT.”

**DWELLING, MULTI-FAMILY:** See “HOUSING, NON-TRANSIENT.”

**DWELLING GROUP:** See “HOUSING, NON-TRANSIENT.”

**DWELLING UNIT:** One or more rooms connected together consisting of a, separate, independent housekeeping establishment for owner occupancy, rental or lease, that contains independent cooking, sanitary and sleeping facilities for one family. This shall include sectional, modular and standard designed manufactured home units, and residential designed manufactured home units provided they meet the standards of this law and the New York State Building and Fire Prevention Code. It shall not include motel, hotel or lodging establishments for transient occupancy, substandard mobile homes or trailers.

**EASEMENT:** A vested or acquired right to use land other than as a tenant for a specific purpose, such right being held by someone other than the owner who holds title to the land.

**FAMILY:** Any single person or group of persons who live together in a one dwelling unit and maintain a common household.

**FINISHED GRADE:** The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade - in computing height of buildings and other structures or for other purposes - shall be the average elevation of all finished grade elevations around the periphery of the building, except that this average shall not exceed one-half (½) of the floor-to-ceiling height.

**FLOOR AREA:** The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of walls separating the buildings as defined by the NYS Fire Protection and Building Code.

**GARAGE, SERVICE AND REPAIR:** An enclosed building for the indoor repair of motor vehicles including painting and the sale of parts and accessories. A junkyard or auto salvage yard is not to be construed as a garage.

**GASOLINE FILLING STATION:** An area of land, including structures thereon, or any building or part thereof, with pumps and storage tanks that is used primarily for the storage and retail sale of gasoline or any other motor vehicle fuel and for other uses accessory thereto. The sale of

lubricants, motor vehicle accessories, washing (which does not require mechanical equipment), or otherwise servicing motor vehicles, are permitted accessory uses.

GRAVEL PIT: See “MINING.”

HAZARDOUS SUBSTANCES: All substances defined in 6NYCRR Part 597 and all hazardous wastes as defined in 6NYCRR Part 371.

HOME OCCUPATION: A business use conducted as an accessory use which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the occupant(s) of such dwelling unit, and in which not more than one (1) person not residing in such dwelling unit is employed on site. Home Occupations are either “off-site” or “on site.”

- A. HOME OCCUPATION, OFF SITE SERVICE: A home occupation in which the owner meets customers off premises or electronically and, thus, does not generate additional traffic. A distributorship whose primary function is the processing of orders for merchandise and which does not involve retail sales or a high volume of stock and merchandise on the premises may be deemed an off-site home occupation, provided such use meets the intent and all standards of this section.
- B. HOME OCCUPATION, ON SITE SERVICE: A home occupation in which the owner meets customers on premises or receiving a high volume of stock and merchandise and, thus, the business generates additional traffic.

HOSPITAL: A building containing beds for four or more patients, and used for the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment, or care of human ailments.

HOTEL: See “HOUSING, TRANSIENT.”

HOUSE TRAILER: A structure, transportable, in one section on wheels, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. Distinguished from modular homes which, although assembled in a factory, do not have a permanent chassis and are constructed or installed at the building site.

- A. SINGLE-WIDE HOUSE TRAILER: A house trailer that is 18 feet or less in width and 90 feet or less in length and can be towed to their site as a single unit.
- B. DOUBLE-WIDE HOUSE TRAILER: A house trailer that is 20 feet or more in width and 90 feet or less in length and are towed to their site in two separate units.

HOUSING, NON-TRANSIENT: A building designed or used principally as the permanent living quarters for one or more families. Such housing is also known as a ‘residence’ but shall not be deemed to include a motel, or hotel or other accommodations used for transient occupancy and shall include the following:

- A. DWELLING, ONE-UNIT DETACHED - A building containing one (1) dwelling unit only on one lot.
- B. DWELLING, ONE-UNIT ATTACHED - A building containing two (2) dwelling units on separate lots. This includes “zero-lot line” one-unit homes.
- C. DWELLING, TWO-UNIT - A building containing two (2) dwelling units on one lot. This includes “duplex.”
- D. DWELLING, MULTI-UNIT- A building or series of buildings comprising three (3) or more dwelling units with shared entrances and other essential facilities and services on one lot.
- E. DWELLING GROUP - A group of three (3) or more, but not over ten (10), attached one - or two-unit dwellings with common walls between.
- F. GROUP HOME - A one-unit dwelling in which resides a group of mentally and/or physically challenged persons, not related by blood, marriage or adoption who maintain a common household as governed by state law. A group home includes “community residence.”
- G. ROOMING HOUSE - A one-unit dwelling containing a common kitchen and dining facility, in which at least three (3) sleeping rooms are offered for rent, with or without meals. A “lodging house” and “boarding house” shall be deemed a “rooming house.”
- H. SHARED HOUSING -A one-unit dwelling in which persons not related by blood, marriage or adoption live together and maintain a common household.
- I. TOWNHOUSE - A building consisting of three or more attached one-unit dwellings each having separate entrances and common vertical walls on separate lots.

HOUSING, TRANSIENT - Any buildings that serve as principle lodging or residence for more than one transient individual that occupies the such building briefly and temporarily. Such housing shall include the following:

- A. BED & BREAKFAST- A one-unit dwelling in which sleeping rooms are provided by the owner for compensation, for the accommodation of 15 or fewer transient guests and the entire service is included in one stated price. A tourist home shall be deemed a “bed & breakfast.”
- B. HOTEL - A building, or any part thereof, which contains living and sleeping accommodations for more than fifteen (15) transient occupancy for compensation, has a common exterior entrance or entrances and which may contain one (1) or more dining rooms.
- C. MOTEL - A building or group of buildings not over two stories in height containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally

by motor vehicle travelers. The term “motel” includes but is not limited to “auto court,” “motor hotel,” “motor court,” “motor inn,” “motor lodge,” “tourist court,” “tourist cabin” or “roadside hotel.”

- D. VACATION RESORT - Any area of land on which are located two or more cabins, cottages or group of buildings, containing living and sleeping accommodations hired out for compensation, which has a public lobby serving the guests, and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonably or otherwise.

JUNK YARD: An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scraps, used or salvaged building materials, or the mantling, dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. This includes “auto salvage yard,” “dump,” “auto junkyard,” and “solid waste disposal facility.”

KENNEL: Any place at which there are kept four or more dogs or cats more than four months of age or any number of such animals that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LANDFILL, SANITARY: A designated area, where solid waste may be placed for disposal, under the direction and supervision of a designated person; which area is located and operated in compliance with the requirements of the State.

LAND BANKED PARKING: Land reserved for future development of parking in lieu of providing the required parking. Land banked parking allows for more landscaping coverage unless greater parking is needed.

LOT: A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same. A lot shall abut and be accessible from a public or private street.

LOT, CORNER: A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

LOT COVERAGE: See “COVERAGE.”

LOT, DEPTH OF: The mean distance from the lot frontage to its rear line.

LOT LINE, FRONT: A lot line which is coincident with the right-of-way line of a public street or which is measured twenty (20) feet from the edge of the road surface of a private road.

LOT LINES: The lines bounding a lot as defined herein.

LOT, THROUGH: A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT WIDTH - The width along the building line.

LOW-PROFILE BUSINESS: A small business which is compatible with a residential area in the following respects:

- A. Is carried on by the proprietor and not more than three (3) paid employees.
- B. Has no more than three (3) clients or customers at one time, usually by appointment.
- C. Does not operate during the nighttime hours 10:00 p.m. to 8:00 a.m.
- D. Does not create undue traffic or parking problems.
- E. Does not require more frequent trash or garbage collection than residences in the same district.
- F. Does not create excessive noise, dirt, odor or electrical interference.

MANUFACTURED HOME: A structure transportable in one or more section which, in traveling mode, is 8 feet (2438 body mm) or more in width or 40 body feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the manufacturer voluntarily files a certification required by the Secretary of the U.S. Department of Housing and Urban Development (HUD) and complies with the standards established under this title.

For additional planning considerations, refer to NFPA 501, "Standards on Manufactured Housing from the National Fire Protection Association".

MANUFACTURED/HOUSE TRAILER (MOBILE HOME) PARK: A contiguous parcel of land, which is planned and improved specifically for such a purpose, on which two (2) or more manufactured/mobile homes (with or without the wheels and axles in place) are located. Such a park consists entirely of manufactured/mobile homes, each located on a site leased or rented to its occupants who either own, rent, or lease the living unit as a permanent residence.

MINING: Excavation of earth materials for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal and/or the removal of such materials for sale other than what may be required in the erection of buildings on site.

MIXED USE DEVELOPMENT: A single development containing two or more significant land uses (retail, office, residential, hotel/motel, or recreation) which are functionally, visually, and physically integrated into a single site, are developed under a coherent vision, and are compatible with the Comprehensive Plan.

**MODULAR HOME:** A dwelling unit constructed off-site, consisting of two or more segments and designed to be permanently anchored to a foundation, to become a fixed part of the real estate and which meets all State requirements. This includes the term “sectional home.”

**MOTEL:** See “HOUSING, TRANSIENT.”

**NEWSRACK:** Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and distribution or sale of newspapers or other news or informational periodicals. This includes “honor box,” “newspaper box,” or “real estate box.”

**NON-CONFORMING BULK:** See “BULK, NONCONFORMING.”

**NONCONFORMING USE:** See “USE, NONCONFORMING.”

**NURSERY SCHOOL:** A non-public school organized for the purpose of providing regular daytime care or instruction for three or more children less than seven years of age for less than three hours per day, (two sessions may be held daily), as registered and certified by the NYS Education Department. This includes “day nursery” or “kindergarten” but does not include “day care center.”

**NURSING OR CONVALESCENT HOME:** A building where persons are lodged and furnished with meals and long-term or permanent nursing care as defined by the NYS Department of Social Services or successor. This definition includes “assisted care living units,” “health care services facility,” and “home for the aged” but does not include “hospital,” or “halfway home.”

**PARKING SPACE:** An off-street space available for the parking of one motor vehicle exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley.

**PERMEABLE PAVERS:** A method for paving that utilizes materials which allow for infiltration of fluids. Permeable pavers reduce runoff and help to filter pollutants.

**PERSONAL SERVICE ESTABLISHMENTS:** Establishments which provide services to an individual consumer for compensation including but not limited to barber shops, beauty shops, shoe repair shops and other uses of a similar nature.

**PETROLEUM BULK STORAGE REGULATIONS:** New York State’s standards and regulations of petroleum administered by the New York State Department of Environmental Conservation as defined in 6NYCRR Parts 611 through 614.

**PLANNED DISTRICT** - One or more commercial, residential or industrial uses proposed as a unit, in conformance with Article VI.

**PLANNED RESIDENTIAL DISTRICT** - A form of residential development characterized by a unified site design and providing density increases, a mix of building types and common open space. It permits the calculation of densities over the entire parcel and involves additional requirements as set forth in Article V.

**PREMISES:** A lot together with all the buildings and uses thereon.

**PROFESSIONAL OFFICE:** An office operation involving the practice of or associated with medicine, dentistry, law, architecture, engineering and similar fields.

**RESIDENCE:** A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. "Residence," therefore, includes all. non-transient housing. However, "residence" shall not include the following:

- A. Transient housing, such as hotels, and motels.
- B. That part of a mixed use which is used for any non-residential uses.

**RESTAURANT:** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, where the sale of alcoholic beverages is incidental to the sale and consumption of food, and where customers are served their food and beverages by a restaurant employee for consumption: (a) at the same table or counter at which the food or beverages are served, or (b) elsewhere within the building, or (c) within a motor vehicle parked on the premises, or (d) off the premises as carry-out orders.

**RIDING ACADEMY:** Any establishment where horses are kept for riding, driving or stabling for compensation.

**RIGHT-OF-WAY:** The property under ownership or easement normally used for the movement of vehicles, including but not restricted to the pavement area.

**ROADSIDE STAND:** A light structure with a roof, either attached to the ground or movable, used for the sale of local produce on a seasonal basis.

**SATELLITE DISH:** An antenna capable of receiving communications from space. Includes "satellite dish."

**SETBACK:** The required distance in feet between any building and any lot line of the lot on which it is located.

**SIGN:** Any image, device, structure (or part thereof) viewable from a public place, which shall display information for the purpose of announcement, direction or advertisement. Signs should be classified according to one or more of the following definitions.

**ACCESSORY SIGN:** Any sign other than the primary identification signs, directional signs, open/closed signs, or exempt signs; common uses include product and service advertising signs.

**ADVERTISING SIGN:** A sign which directs attention to a business, profession, product, service, activity or entertainment which is not conducted, sold or offered on the premises upon which such sign is located.

**BANNER:** A piece of cloth, plastic or other flexible material on which words, letters, figures, colors, designs or symbols are inscribed or affixed for the purposes of advertisement, identification, display or direction and which is suspended for display, typically from buildings or poles.

**BILLBOARD:** Any one (1) sign face, on or off-premise, permanent or temporary, which exceeds 250 sq. ft. in area.

**COMMUNITY IDENTIFICATION SIGN:** A permanent sign which identifies the name of a subdivision, apartment complex, condominium or other type of residential or nonresidential development or neighborhood.

**CONSTRUCTION SIGN:** A temporary sign which identifies facilities being actively constructed or altered, the anticipated sale, lease or rental of those facilities, or the identity of the persons or firms engaged in the promotion, financing, design, construction or alteration of such facilities.

**ELECTRONIC MESSAGE SIGN:** A sign that utilizes computer-generated messages or some other electronic means of displaying and changing copy.

**EXTERNAL ILLUMINATION:** Illumination by floodlights, spotlights or other sources which are focused directly on the face of the sign.

**FREE-STANDING SIGN:** A sign, supported by one or more columns, uprights or braces, in or upon the ground, and not attached to any building. Free-standing signs include, but are not limited to, pole signs, monument signs, and signs attached to a flat surface such as a fence or wall not a part of a building.

**MONUMENT SIGN:** A type of free-standing sign, other than a pole sign, with sides parallel to or nearly parallel to each other, with the supporting structure as wide as or wider than the sign face itself, and with the entire supporting structure in contact with the ground or within twelve inches (12") of the ground.

**IDENTIFICATION SIGN:** An on-premises sign which indicates the name, nature, logo, trademark, commodity, entertainment or service sold, offered or manufactured on the premises, and/or other pertinent information about a building, business, development or establishment on the premises.

**INTERNAL ILLUMINATION:** Illumination by a light source which is concealed or contained within the sign itself and which shines through a translucent surface, except as defined under "electronic message center".

**MARQUEE OR CANOPY SIGN:** A sign which is painted on, attached to, or hung from a marquee or canopy which projects from and is totally or partially supported by a building.

**OFF-PREMISES SIGN:** A sign which is not located on the same premises as the use to which it refers



**PENNANTS:** Pieces of cloth, plastic or flexible material, generally triangular or rectangular in shape, and which typically are strung together in a series on lines which are hung from poles, between buildings or in other arrangements for the purpose of decoration or attracting attention.

**PORTABLE SIGN:** Any sign not permanently attached to a structure or permanently mounted in the ground which can be transported to other locations. Portable signs shall include, but not be limited to, signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels.

**PROJECTING SIGN:** A sign which is attached perpendicularly, or nearly perpendicularly, to a building wall or roof line and which extends from such wall or roof line not more than forty-eight inches (48").

**ROOF SIGN:** A sign which is an integral part of the building design and is attached to, painted on, or supported by the roof of a building.

**TEMPORARY SIGN:** A sign, banner, poster, or advertising display constructed of cloth, plastic, sheet-metal, cardboard, wallboard, plywood or other like materials, intended to be displayed for a limited period of time, and not permanently attached to a building or the ground.

**WALL SIGN:** A sign which is painted on or attached parallel to a wall of a building and which extends not more than eighteen inches (18") from such wall.

**SINGLE OWNERSHIP:** Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than thirty years, regardless of any division of such land into parcels for the purpose of financing.

**SOLAR COLLECTOR:** A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy, that contributes significantly to a structure's energy supply, and components for containing and supporting such device.

**SOLAR COLLECTOR, DETACHED:** A solar collector, as defined herein, physically detached from the structure for which solar energy is to be supplied.

**SPECIAL USE PERMIT:** The authorization of a particular land use which is permitted in the Village of Painted Post Zoning Law, subject to requirements as described in Article XII to assure that the proposed use is in harmony with the Zoning Law and will not adversely affect the neighborhood if such requirements are met.

**STORAGE FACILITY, INDOOR:** A building or grouping of buildings designed and constructed for the common, long-term and/or seasonal interior storage of individual or business property by persons other than the property owner. The wholesale storage and/or transfer of goods by commercial enterprises is not included in this definition. See also "TRUCKING TERMINAL" and "WAREHOUSE."

**STORAGE FACILITY, OUTDOOR:** A lot designed for and/or used for the common, long-term and/or seasonal outdoor storage of individual or business property by persons other than the property owner.

**STORAGE YARDS FOR EQUIPMENT:** A lot designed for and/or used for the long-term and/or seasonal outdoor storage of business property by the property owner.

**STORY:** That part of a building comprised between a floor and the floor or roof next above it. (See “ATTIC”, “BASEMENT”, and “CELLAR”).

**STORY, HALF:** That portion of a building situated above a full story and having a least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half the floor-to-ceiling height of the story below.

**STREET, DEAD-END** - A street or portion of a street with only one vehicular access.

**STREET, PRIVATE** - A road, serving not more than two residential lots, built to Village specifications and that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Village. This includes Aprivate road.@

**STREET, PUBLIC** - A right-of-way for vehicular traffic, whether designated as a road, highway, thoroughfare, parkway, street, avenue, boulevard, lane, place, alley, or however otherwise designated, that is built to Village specifications and dedicated to the Village for maintenance, but not including a private street. This includes “road.”

**STREET WIDTH:** The width of the right-of-way or the distance between property lines on opposite sides of a street.

**STRUCTURE:** A static construction of building materials, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time), and the like.

**STRUCTURE, ACCESSORY** - A structure detached from and subordinate to a principal building on the same lot used for purposes customarily incidental to those of the principal building. Accessory structures include but are not limited to, portable, demountable or permanent detached enclosures, shade structures, carports, garages, and storage sheds. Accessory structures are non-habitable, have no sewer or water utilities and exceed 120 sq. ft.

**SWIMMING POOL:** An artificial pool of water having a depth at any point of more than eighteen (18) inches and a surface area of greater than one hundred (100) square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment.

**TOWN HOUSE:** See, “HOUSING, NON-TRANSIENT.”

**TRAILER, HOUSE:** See, “MOBILE HOME, SUBSTANDARD.”

**TRAILER** - A structure that is:

- A. Intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and
- B. is designed for temporary use as sleeping quarters but does not satisfy one or more of the definition criteria of a manufactured home as defined in this law. This includes “travel trailer” and “camper.”

USE: This term is employed in referring to:

- A. The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained, or conducted.
- B. Any occupation, business activity, or operation conducted in a building or other structure, or on land.

USE, ACCESSORY: A use customarily incidental and subordinate to the principal use or building. Accessory uses may occur as an open land use, as a separate building(s) or within the principal building. An accessory use does not have any greater impact on the environment than the principal use.

USE, NONCONFORMING: Any use of a building, other structure or tract of land which was lawfully existing prior to the adoption or amendment of this chapter but which does not conform to the use regulations for the district in which such use is located by reason of such adoption or amendment.

USE, PRINCIPAL - The main or primary permitted use of the lot or structure.

VACATION RESORT: See “HOUSING, TRANSIENT.”

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 physical requirements of the applicable zoning regulations.

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

VETERINARY HOSPITAL: A building for the treatment of animal illness including kennels or other similar facilities for boarding animals.

WAREHOUSE: A structure or premises, for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation, whether it is in public or private ownership and use.

WAY: A thoroughfare, however designated, permanently established for passage of persons or vehicles.

YARD, FRONT: A yard extending along the full length of the front lot line between the side lot lines, not including any land within the right-of-way of public or private streets.

**YARD, REAR:** A yard extending along the full-length of the rear lot line, between the side lot lines, not including any land within the right-of-way of public or private streets.

**YARD, REQUIRED:** That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

**YARD, SIDE:** A yard situated between the building and the side line of a lot and extending from the front yard rear line (or from the front lot line, if there is no required front yard) to the rear yard front line (or rear lot line).

**§ 280.9            (Reserved)**

**§ 280.10          (Reserved)**

**§ 280.11          (Reserved)**

**§ 280.12          (Reserved)**

**§ 280.13          (Reserved)**

**ARTICLE III**  
**ESTABLISHMENT OF DISTRICTS**

**§ 280.14      APPLICATION OF REGULATIONS** - Except as otherwise provided:

- A. No building or land shall hereafter be used or occupied and no building or addition shall be erected, moved or altered unless in conformity with the regulations specified for the district in which it is located.
- B. No buildings shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein, for the district in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another building.
- D. No lot shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than required by this Law.
- E. No building or occupancy permit shall be issued unless the Enforcement Officer is satisfied that the land or parcel in question has no natural characteristics which would endanger the health, safety or welfare of the resident, or others. Such natural characteristics may include flooding, inadequate percolation, excessive slope or other characteristics affecting on-site sewage disposal and the general use of the property.

**§ 280.15      NAMES OF ZONING DISTRICTS**

- A. In order to fulfill the purpose of this Zoning Law, the Village of Painted Post is divided into the following zoning districts:

- LDR   - Low Density Residential
  - MDR   - Medium Density Residential
  - VC     - Village Center
  - B       - Business
  - I       - Industrial
  - I-2    - West Water Street Development
  - CL     - Conservation Land

- B. The following overlays shall be applicable anywhere that the stated conditions and criteria are met:

- Overlays:
  - FPPO   - Floodplain Protection/Recreation

C. Low Density Residential (LDR) Intent:

To delineate those areas where one-unit detached dwellings are located on large lots (12,000 square feet or larger) with public sewer and water services currently or potentially provided, while minimizing strip frontage development.

D. Medium Density Residential (MDR) Intent:

To delineate those areas suitable for the development of varied dwelling units, such as one and two-unit detached houses, townhouses and multi-unit dwellings while maintaining the style and character of the older Village residential areas (minimum lot size: 6,500 square feet).

E. Village Center (VC) Intent:

The purpose of a Village Center District is to establish, enhance and promote a cultural, social and commercial center in Painted Post with a downtown atmosphere that is pedestrian oriented. The VC District shall have a compact form that combines jobs, recreation, schools, residential types and neighborhood commercial opportunities. As an area of planned mixed-use zoning, the VC District is intended to discourage strip commercial development and encourage streetscapes, on-street parking and complementary residential and office uses located above and/or adjacent to retail and service commercial uses (minimum lot size: 6,500 square feet), compatible with the style and character of the older Village businesses and residences.

F. Business (B) Intent:

To delineate those areas suited for commercial use that serve primarily the residents of the community.

G. Industrial (I) Intent:

To delineate those areas in the Village that are appropriately suited to manufacturing, process and industrial uses, and to preserve these areas for such uses and related uses that will not create a detrimental or significant adverse impact on the environment and the welfare of the community.

H. I-2 Intent:

To delineate those areas in the Village with special provisions and restrictions set by various groups. The zoned district requires individual development processes and permits specifically allowed uses. See Article IX. Section 280-125.

I. Conservation (CL):

To delineate those existing substantially undeveloped portions of the Village that exhibit a rural character due to the lack of services and serious natural limitations to development, to preserve a cohesive network of open space, stream corridors, wetlands,

steep slopes and other natural habitats and to limit the use of the remaining buildable land to less intensive, agricultural, forestry, and recreational uses in conformance with the natural and man-made limitations.

- J. Flood Plain Protection Overlay (FPPO) Intent: See Local Law No. 1 for 2000, Local Law for Flood Damage Prevention (as amended.)

**§ 280.16      OFFICIAL ZONING MAP**

The location and boundaries of these zoning districts are shown on the map designated “Official Zoning Map of the Village of Painted Post”, adopted on August 12, 2019 and certified by the Village Clerk. This map together with everything shown on it and all its amendments is hereby adopted and is declared to be part of this Zoning Law.

**§ 280.17      INTERPRETATION OF DISTRICT BOUNDARIES**

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

- A. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, or watercourses, the boundaries shall be construed to be the same as these lines. Such boundaries shall be automatically moved if a centerline or right-of-way line of a street, highway, public or watercourse is moved a maximum of fifty (50) feet from the initial boundaries established by the Zoning Map which is part of this Zoning Law.
- B. Where district boundaries are indicated as approximately following the Village boundary line, property lines, lot lines, or their projections, the boundaries shall be construed to be the same as such lines or their projections.
- C. Where district boundaries are indicated to be approximately parallel to the Village boundary line, property lines, lot lines, right-of-way lines, or their projections, the boundaries shall be construed as being parallel to them and at distances as indicated on the Zoning Map or as shall be determined by the scale shown on the Zoning Map.
- D. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion.
- E. In all other cases, where not dimensioned, the location of boundaries shown on the map shall be determined by the use of the scale appearing on the map, but in no instance will a district depth be less than the specified minimum lot depth shown for each district in the Density Control Schedule.

**§ 280.18      USE REGULATIONS - SCHEDULE OF USES TABLE**

The following use regulations apply to the principal and accessory uses as listed in the Schedule of Uses Table.

**SCHEDULE OF USES TABLE**

<b>ZONING DISTRICTS</b>		<b>ABBREVIATIONS</b>	
LDR	Low Density Residential	P	Permitted
MDR	Medium Density Residential	SU	Special Use Permit Required
VC	Village Center	Blank	Use Not Permitted
B	Business		
I	Industrial		
CL	Conservation Land		

<b><u>BUSINESS USES</u></b>	<b>CL</b>	<b>LDR</b>	<b>MDR</b>	<b>VC</b>	<b>B</b>	<b>I</b>	<b>I-2</b>
Amusement Arcade/Game Room				SU	SU		
Automobile repair garage				SU		SU	
Automobile sales area						SU	SU
Bakery				P	P		
Bank				P	P		SU
Bar or night club				SU	SU		
Bowling alley					P	P	
Car washing station						SU	
Convenience/Mini-market w/ gas						SU	
Convenience/Mini-market w/o gas				P	P	P	
Day care center	P	P	P	P	P		
Day care, family home		P	P	P	P		
Drive-in movie						P	
Equipment rental or sales yard						P	
Funeral home		SU	SU		SU		
Gasoline filling station						SU	
Grocery store				P	P	P	
Home occupation – Off-site		P	P	P	P		
Home occupation – On-site		SU	SU	SU	P		
Laundry or dry-cleaning pick-up station				SU		SU	
Low-profile business				SU	P		P
Mixed use		SU	SU	SU	SU	SU	SU
Newspaper offices/Printing shops				SU	SU	SU	
Offices – General				P	P	P	P
Offices – One practicing professional in existing building		SU		P	P		P
Offices – More than one practicing professional				P	P	P	P
Residential – Office conversion							
Personal service establishments				P	SU	SU	SU
Restaurant				P	P	SU	



Retail business or service not otherwise specifically mentioned herein					SU	SU	SU
Riding academy							SU
Roadside stand with peddler's license					P	P	
School conducted for profit					SU		
Self-service laundry				SU	SU	SU	
Storage yards for equipment							
Theater or concert hall				SU	P	P	
Veterinarian office, animal hospital or kennels					SU	SU	
Wholesale business or service, not otherwise specifically mentioned herein					SU	SU	SU
<b>INDUSTRIAL USES</b>	<b>CL</b>	<b>LDR</b>	<b>MDR</b>	<b>VC</b>	<b>B</b>	<b>I</b>	<b>I-2</b>
Contractors yard and equipment						SU	
Manufacture, fabrication, extraction, assembly, warehousing and other handling of material						SU	SU
Mining							
Mixed use				SU	SU	SU	SU
Research laboratories					SU	SU	SU
Storage facility, indoor							
Storage facility, outdoor						SU	SU
Trucking, wholesale warehouse terminals						SU	SU
<b>RESIDENTIAL USES</b>	<b>CL</b>	<b>LDR</b>	<b>MDR</b>	<b>VC</b>	<b>B</b>	<b>I</b>	<b>I-2</b>
Mixed use		SU	SU	SU	SU	SU	SU
Housing, Non-Transient							
Apartment, upper story		P	P	P	P	SU	
Cluster development		SU	SU				
Dwelling, one-unit, detached includes Residential Designed Manufactured Home, Modular Home, Sectional Home, House Trailer		P	P				
Dwelling, one-unit, attached		P	P				
Dwelling, two-unit		P	P				
Dwelling, multi-unit			SU	SU			
Group home		P	P				
Manufactured home park							
Rooming house			SU				
Shared housing		P	P				
Housing, Transient							
Bed & Breakfast		SU	SU	SU			

Hotel					SU		
Motel					SU		
Nursing or convalescent home		SU	SU		SU	SU	
Vacation resort							
<b>GENERAL USES</b>	<b>CL</b>	<b>LDR</b>	<b>MDR</b>	<b>VC</b>	<b>B</b>	<b>I</b>	<b>I-2</b>
Accessory use/building/structure on the same lot	P	P	P	P	P	P	P
Accessory use/building/structure on a separate lot		SU	SU		SU	SU	SU
Agriculture, for crops					SU	SU	
Agriculture, manufacture						SU	
Agriculture, nursery					P		
Animals, raising or keeping of							
Cemetery		SU	SU		SU	SU	
Church or other place of worship		P	P	P	P		
Club, membership				SU	SU	SU	
Communication tower (new)						SU	SU
Communication tower (co-location on existing tower)		P	P	P	P	P	P
Crematory					SU	SU	
Cultural facilities (library, art gallery, museum, etc.)		SU	SU	P	P	P	
Golf course or country club		SU	SU		SU	SU	
Hospital or sanitarium		SU	SU		SU	SU	
Institutional or philanthropic use		SU	SU	SU	SU	SU	
Nursery school		SU	SU		SU		
Private, public or parochial school		SU	SU		SU	SU	
Public utility or transportation use							
a) Office					P	P	P
b) Repair, service and storage					SU	P	P
Satellite dish (<3' in diameter ground-mounted installations)		P	P	P	P	P	P
Satellite dish (>3' in diameter and/or roof-mounted installations)		SU	SU	SU	P	P	P
<b>RECREATIONAL USES</b>	<b>CL</b>	<b>LDR</b>	<b>MDR</b>	<b>VC</b>	<b>B</b>	<b>I</b>	<b>I-2</b>
Recreational Trail	P						
Amphitheater	P						
Outdoor classroom	P						
Public restroom building	P			SU			
Nature center	P						

**§ 280.19      ACTIVITIES PROHIBITED IN ALL DISTRICTS**

- A. No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.
- B. The practice of soil stripping shall be limited to incidental filling of areas within the Village to bring them up to grade, except insofar as is necessary or incidental to excavations for cellars and other structures.
- C. No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.
- D. Storage of material in a manner that facilitates the breeding of vermin or endangers health in any way.

**§ 280.20      FIRE, SAFETY AND SANITATION REGULATIONS**

- A. No building except a silo or church shall be constructed either over three (3) stories or thirty-five (35) feet in height unless built of noncombustible materials.
- B. A building which has been damaged to the extent that renders it uninhabitable, unsafe or unusable for its intended purpose, must be reconstructed or razed in a fashion which leaves the site clean and safe, as determined by the fire chief or enforcement officer, within three (3) months.

All buildings shall be in conformance with applicable building construction and fire prevention codes.

**§ 280.21      (Reserved)**

**§ 280.22      (Reserved)**

**§ 280.23      (Reserved)**

**§ 280.24      (Reserved)**

**ARTICLE IV**  
**AREA AND BULK REGULATIONS – DENSITY CONTROL**

**§ 280.25      PURPOSE**

In order to provide adequate open spaces 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 premises shall be erected, altered or used except in accordance with the standards set forth in this Article.

**§ 280.26      BUILDABLE LAND CALCULATIONS**

Density of a subdivision is calculated on net acreage, not gross acreage, of buildable land according to the following guidelines:

- A. **UNBUILDABLE LAND.** The subdivider shall identify and subtract all acreage considered to be unbuildable as follows:
  - 1. Steep slopes twenty-five (25%) or greater
  - 2. Floodways as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as amended
  - 3. Wetlands, including New York State designated wetlands, those regulated by the US Army Corps of Engineers and those on the National Wetlands Inventory
  - 4. Lands covered by water bodies
  - 5. Stream corridors (50' setback from each streambank)
- B. **DENSITY CALCULATIONS.** The subdivider shall then calculate the acreage that is determined to be buildable and apply the bulk density control schedule minimum square footage per dwelling units or principal buildings as defined in Article IV of the Village Zoning Law to the buildable acreage. All density values shall be rounded to the nearest whole number of dwelling units or principal buildings.

**§ 280.27      DENSITY CONTROL SCHEDULE (AREA AND BULK SCHEDULE)**

The attached schedule of density control regulations is hereby adopted and declared to be part of this Zoning Law and is hereinafter referred to as the “Density Control Schedule.”

## DENSITY CONTROL SCHEDULE

Use	Zoning District	Minimum Land Area Per Dwelling Unit (Sq. Ft.)	Minimum Land Area Per Principal Use (Sq. Ft.)	Minimum Lot Width at Bldg. Line	Minimum Yard Dimensions			Maximum Lot Coverage (Inc. All Accessory Bldgs.)	Maximum Height
					Front	Side	Rear		
Residential	LDR	12,000	-	100	30	10	25	30%	25'
	MDR	6,500	-	65	20	6	25	30%	25'
Non-Residential	VC	See Article VII – Village Center District							
	CL	-	348,480 (8 acres)	100	50	25	50	10%	35'
	LDR	-	13,000	100	20	10	25	30%	25'
	MDR	-	8,400	75	20	10	25	30%	25'
	B	-	5,000	50	30	10	25	30%	35'
	I	-	15,000	100	50	25	50	30%	35'
	I-2	-	15,000	100	50	25	50	30%	50'

\* These density control regulations can vary with uses that require site plan review. Each Planned Commercial District, Planned Development District, Cluster Development, Mixed Use Development, and Planned Residential District will be reviewed on an individual basis using the above schedule as a guide.

### § 280.28 CORNER LOTS

Wherever a side or rear yard is adjacent to a street, the standards for front yards shall apply.

### § 280.29 PROJECTIONS INTO REQUIRED YARDS

A. The following projections into required yards may be permitted:

1. Open fire escape - four feet into side or rear yards
2. Awning, movable canopies and overhangs - six (6) feet into any yard
3. Cornices, eaves, insulation walls and roofs and other similar architectural features - three feet into any yard
4. Apparatus needed for the operation of active or passive solar energy systems, including detached solar collectors, solar reflectors, piping or duct work, and insulation necessary for efficient utilization thereof.

B. Any open or enclosed porch or attached carport or garage shall be considered a part of the building in the determination of the size of the required yard or lot coverage. Non-roofed paved terraces shall not be considered a part of the building.

C. Accessory uses, structures and buildings may be located in accordance with Section 280.148.

**§ 280.30      SETBACKS FOR PRE-EXISTING UNDERSIZED LOTS**

The following setback exceptions shall supersede the standard residential setbacks specified in any zoning district.

- A. Side setback reduction based on area. A lot created prior to 1984 whose area is less than the minimum 6,500 square feet required qualifies for reduced side yard setbacks. The following table lists the allowable reduced side yards for ranges of substandard lot sizes.

UNDERSIZED LOT AREA (net square feet)	MINIMUM SIDE YARD (feet)
3,750 – 5,499	8
5,500 – 6,000	8
6,001 – 6,499	8

- B. Side setback reduction based on width. A narrow lot (having an exceptionally large depth-to-width ratio) shall have minimum side yard setbacks equal to 20 percent of the lot width whenever such setback dimension would be lesser than would otherwise be provided for by the Zoning Ordinance. This allowance shall not, however, allow for an exterior side yard setback on a corner lot to be less than 10 feet.
- C. For the purposes of this subsection, width shall be measured across the portion of the lot where the dwelling is or will be located, and the resulting side setback shall be rounded to the nearest whole foot.
- D. Rear setback reduction based on depth. Required residential rear yard setbacks may be reduced to 20 percent of the depth of any lot. For the purposes of this subsection, depth shall be measured through the portion of the lot where the dwelling is or will be located, and the resulting rear setback shall be rounded to the nearest whole foot.

**§ 280.31      COMPLIANCE WITH MAXIMUM AVERAGE RESIDENTIAL DENSITY**

- A. In all districts where residences are permitted, a lot held in a single ownership may be improved for residential use according to the minimum lot size per dwelling unit and bulk regulations for each district as set forth in the Density Control Schedule, provided that there shall be no more than one principal building and use on each lot. If two or more principal residential structures are located on the same lot, the maximum average density requirement must be complied with and future partition of the lot must be anticipated by providing adequate width and yards.
- B. A residential lot of required or larger than required size as set forth in this Zoning Law shall not be reduced in size for transfer of ownership if such lot so subdivided will form one or more lots which shall not be in compliance with the requirements for the maximum average residential density for the district in which such lot or lots are situated, except as provided in Article V.

**§ 280.32      SIDE YARDS FOR MULTI-FAMILY DWELLING UNITS**

Side yards for semi-detached or townhouses and multi-family dwellings units, where permitted, shall be required at the ends of the total structure only.

**§ 280.33      DISTANCE BETWEEN PRINCIPAL BUILDINGS ON SAME LOT**

No detached principal building shall be closer to any other principal building on the same lot than the average heights of said building.

**§ 280.34      EXCEPTIONS TO FRONT YARD REQUIREMENTS**

If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth. If there are dwellings on both abutting lots with front yards greater than the required depth for the district, or if there is a dwelling on one abutting lot with a front yard greater than the required depth for the district, the front yard for the lot shall be determined by averages as specified.

**§ 280.35      GENERAL EXCEPTION TO HEIGHT REGULATIONS**

Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, solar energy equipment and other similar objects not used for human occupancy are not subject to the building height limitations of this Law.

**§ 280.36      STANDARDS FOR MIXED USES**

- A. **Intent.** The provisions of mixed use standards are to accommodate the development of well-planned sites that incorporate multiple uses and in doing so, encourage increased opportunities for pedestrian oriented living, village infill development, and distinctive neighborhood character. Traditionally, in a “Main Street” situation, retail and/or service uses are located on the first floor and office or residential uses are located on upper floors, with minimal parking in the rear of the lot.

The character of mixed-use development is usually pedestrian-oriented and contains elements of a live-work-play environment. It maximizes space usage, has amenities, architectural expression, and tends to mitigate the negative effects of traffic.

To give the site planner maximum freedom, more intensive land use may be permitted for mixed use developments. The coverage, height, setbacks, and other elements of site design may be varied under circumstances in which a more imaginative use of the building site is proposed than can currently be achieved under other regulations of this Law. Each mixed-use development will be subject to the procedures and requirements for obtaining a Special Use permit as defined in **Article XVI** of this law.

- B. **Permitted Zones.** A mixed-use Development may be permitted in the following zoning districts subject to the approval of a Special Use Permit and Site Plan Review by the Village Planning Board provided such use is not specifically prohibited in the district:
1. Village Center
  2. Low Density Residential
  3. Medium Density Residential
  4. Business
  5. Industrial & I-2
- C. **Permitted Uses.** The following uses and their accessory uses may be permitted subject to the approval of a Special Use Permit and Site Plan Approval by the Village Planning Board:
1. Residential developments such as single-family dwellings, townhouses, duplexes, and apartment houses, provided that all residences are intended for permanent occupancy by their owners or tenants;
    - A. Accessory uses are allowed if not prohibited in the underlying zone, given that they are specifically designed to meet noncommercial facility needs; Accessory uses do not count as a separate or additional use.
  2. Neighborhood commercial and retail uses as allowed in the underlying zone.
  3. General Office uses
  4. Cultural Facilities
- D. **Non-Permitted Uses.** There are general uses that have been determined to be incompatible with the overall objectives of the Village's Mixed-Use Ordinance. These uses include the following:
1. Shopping centers / strip malls
  2. Regional malls
  3. Drive-through windows
  4. Big Box commercial and wholesale structures and developments
  5. Auto-oriented uses such as auto repair, auto sales, gas stations, and car washes
  6. Gated residential developments
  7. Mobile/Manufactured homes
  8. Heavy industrial
  9. Industrial scale agricultural uses
  10. Mini storage, self-storage units
- E. **General Layout & Design Standards.** Any mixed-use development proposal shall conform to the following standards which shall be regarded as minimum requirements, in addition to all applicable standards in other sections of this Law.
1. Mixed-use Developments must occupy a single building on a single site. These uses could be combined vertically or horizontally within the same building.
  2. All developments shall be served by public sewer and public water.
  3. Mixed use developments shall be placed so the building is located close to an adjoining village center, close to major roads, close to public transit, or close to other significant developments.
  4. The main pedestrian access point to a building shall be located along the facade oriented toward the primary street with the entrance from a public sidewalk or plaza. Secondary entrances from parking lots are permitted.
  5. Mixed residential uses shall be designed to include diverse housing options.



6. Utility lines shall be located underground when practical to minimize negative visual impacts
7. The design of the mixed use planned development shall consider the relationship of the proposed site to the surrounding areas. The perimeter of the mixed-use development shall be so designed as to minimize undesirable impact of the mixed-use development on adjacent properties as well as to minimize undesirable impact of adjacent properties on the mixed-use development.
8. Density regulations (such as minimum lot size, lot width, lot coverage, setbacks, height) on mixed use planned development areas shall be comparable to or compatible with those of the existing development of adjacent properties or if adjacent properties are undeveloped, the type of development which may reasonably be expected on such properties given the existing zoning of such properties and the land use component of the comprehensive plan.

§ 280.37      (Reserved)

§ 280.38      (Reserved)

**ARTICLE V**  
**LOW-DENSITY RESIDENTIAL DISTRICT**

**§ 280.39      INTENT**

The intent and purpose of the Low-Density Residential District (LDR) is to delineate those areas where one-unit detached dwellings are located on large lots (12,000 square feet or larger) with public sewer and water services currently or potentially provided, while minimizing strip frontage development.

**§ 280.40      PERMITTED USES**

Provided that the provisions of § 280.42-280.45 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. Day care center
- B. Day care, family home
- C. Home occupation – Off-site
- D. Dwelling, one-unit, detached includes Residential Designed Manufactured Home, Modular Home, Sectional Home
- E. Dwelling, one-unit, attached
- F. Dwelling, two-unit
- G. Group home
- H. Shared housing
- I. Accessory use/building/structure on same lot
- J. Church or other place of worship
- K. Communication tower (co-location on existing tower)
- L. Satellite dish (< 3' in diameter and/or ground-mounted installations)

**§ 280.41      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

**§ 280.42      GENERAL PROVISIONS**

- A. Home occupations.
  - 1. The home occupation shall only be allowed upon filing with the Code Enforcement Officer an application, pursuant to an in compliance with this subsection, which shall include:
    - A. A copy of the proof of ownership of the dwelling (deed or land contract).
    - B. A statement as to the occupation to be conducted.
    - C. A diagram of the dwelling unit drawn to scale of one inch to five feet, showing the entire dwelling and the portion to be used for the home occupation.

2. The occupation must be conducted by the person or persons owning and residing in the dwelling unit and no more than one additional employee.
3. A home occupation shall generate no traffic which cannot be accommodated in the existing residential driveway serving the residence and shall produce no noise, smoke, dust, odor, heat, glare or electronic disturbances beyond the property it occupies.

**§ 280.43      LANDSCAPING**

All yards shall be appropriately landscaped with trees, shrubs, grass or other forms of ground cover. For all landscaping regulations, see § 280.151.

**§ 280.44      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

- A. Building height. No residential building shall be erected or altered so as to exceed 25 feet in height.
- B. Accessory structures. All accessory buildings shall not be less than five feet from any principal structure.

**§ 280.45      PARKING**

For off-street parking regulations, see § 280.144B.

**§ 280.46      (Reserved)**

**§ 280.47      (Reserved)**

**§ 280.48      (Reserved)**

**ARTICLE VI**  
**MEDIUM-DENSITY RESIDENTIAL DISTRICT**

**§ 280.49      INTENT**

The intent and purpose of the Medium-Density Residential District (MDR) is to delineate those areas suitable for the development of varied dwelling units, such as one and two-unit detached houses, townhouses and multi-unit dwellings while maintaining the style and character of the older Village residential areas (minimum lot size: 6,500 square feet).

**§ 280.50      PERMITTED USES**

Provided that the provisions of § 280.52-280.55 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. All uses permitted in § 280.40.

**§ 280.51      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

**§ 280.52      GENERAL PROVISIONS**

- A. Home occupations.

1. The home occupation shall only be allowed upon filing with the Code Enforcement Officer an application, pursuant to an in compliance with this subsection, which shall include:
  - A. A copy of the proof of ownership of the dwelling (deed or land contract).
  - B. A statement as to the occupation to be conducted.
  - C. A diagram of the dwelling unit drawn to scale of one inch to five feet, showing the entire dwelling and the portion to be used for the home occupation.
2. The occupation must be conducted by the person or persons owning and residing in the dwelling unit and no more than one additional employee.
3. There shall be no external evidence of the occupation other than one sign not exceeding four square feet in area, which shall be attached to the dwelling.
4. A home occupation shall generate no traffic which cannot be accommodated in the existing residential driveway serving the residence and shall produce no noise, smoke, dust, odor, heat, glare or electronic disturbances beyond the property it occupies.

**§ 280.53      LANDSCAPING**

All yards shall be appropriately landscaped with trees, shrubs, grass or other forms of ground cover. For all landscaping regulations, see § 280.151.

**§ 280.54      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

- A. Building height. No residential building shall be erected or altered so as to exceed 25 feet in height.
- B. Accessory structures. All accessory buildings shall not be less than five feet from any principal structure.

**§ 280.55      PARKING**

For off-street parking regulations, see § 280.144B.

**§ 280.56      (Reserved)**

**§ 280.57      (Reserved)**

**§ 280.58      (Reserved)**

**ARTICLE VII**  
**VILLAGE CENTER DISTRICT**

**§ 280.59      INTENT**

The intent and purpose of the Village Center District (VC) is to establish, enhance and promote a cultural, social and commercial center in Painted Post with a downtown atmosphere that is pedestrian oriented. The VC District shall have a compact form that combines jobs, recreation, schools, residential types and neighborhood commercial opportunities. As an area of planned mixed-use zoning, the VC District is intended to discourage strip commercial development and encourage streetscapes, on-street parking and complementary residential and office uses located above and/or adjacent to retail and service commercial uses (minimum lot size: 6,500 square feet), compatible with the style and character of the older Village businesses and residences.

**§ 280.60      PERMITTED USES**

Provided that the provisions of § 280.62-280.65 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. Bakery
- B. Bank
- C. Convenience/Mini-market w/o gas
- D. Day care center
- E. Day care, family home
- F. Grocery store
- G. Home occupation – Off-site
- H. News rack
- I. Offices – General
- J. Offices – One practicing professional in existing building
- K. Offices – More than one practicing professional
- L. Personal service establishments
- M. Restaurant
- N. Apartment, upper-story
- O. Accessory use/building/structure on the same lot
- P. Church or other place of worship
- Q. Communication tower (co-location on existing tower)
- R. Cultural facilities (library, art gallery, museum, etc.)
- S. Satellite dish (< 3' in diameter ground-mounted installations)

**§ 280.61      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

**§ 280.62      GENERAL PROVISIONS**

- A. New construction shall align the front façade of the building at, or as close as possible to, the front façade of an existing building on an adjacent property. In the case of a discrepancy of setbacks, the new building shall align with at least one of the neighboring buildings.
- B. New construction shall attempt to work with any preexisting building patterns found in adjacent or nearby buildings with regards to massing, height, scale and form.

**§ 280.63      LANDSCAPING**

- A. The use of landscaping methods, such as low walls, hedges and tree rows, shall be used to help maintain and reinforce a consistent street wall in areas where there are no building facades to define it.
- B. All land not used for building or parking and loading facilities shall be improved by grass, trees, shrubs or other forms of landscaping.
- C. For all landscaping regulations, see § 280.151.

**§ 280.64      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

In the VC District, no business structure shall be erected or altered to exceed a height of 35 feet. New buildings do not require side yard setbacks; however, buildings must follow regulations as stated in this article.

**§ 280.65      PARKING**

- A. All off-street parking areas, vehicle loading or service areas located within sight of the street must be screened from view using appropriate architectural or landscaping methods.
- B. Off-street parking areas, vehicle loading or service areas shall connect to any existing service alleys or adjacent parking areas, if available, to allow alternate means of egress.
- C. Proposed off-street parking areas should be located next to any adjacent exiting parking lots, if possible, to provide shared parking opportunities which can serve neighboring buildings simultaneously.
- D. For all off-street parking regulations, see § 280.144B.

**§ 280.66      SIGNS**

- A. The following signs are permitted in the Village Center District:

**1. Buildings with One Tenant**

- A. One of the following types of signs may be allowed: wall, window, perpendicular, arcade, or freestanding.

- B. The sign shall not exceed 6 square feet in area.

## **2. Buildings with Multiple Tenants**

1. A master sign plan for the building complex and the parcel is required with a Site Plan application. The master sign plan shall be suitably scaled and indicate the types and locations of all signs to be located on the building complex and parcel. The plan shall address all standards as stated in \_\_\_\_\_.
2. Consistent with an approved master sign plan, one free standing nameplate sign indication the name of the complex and tenants may be allowed.
3. Consistent with the approved master sign plan, each tenant may be allowed one or two signs of the following types: wall, window, perpendicular, or arcade. The aggregate area shall not exceed six square feet.
4. No sign above shall exceed 6 square feet in area.

## **B. SUPPLEMENTAL BUSINESS SIGN STANDARDS.**

1. **Window Signs.** Temporary window signs including real estate signs in windows, may be displayed for a maximum of fifteen consecutive days, with a period of thirty days between usages, and no more than three usages per year. Temporary window signs may not exceed six square feet in area, with a maximum dimension of thirty-six inches. Permits for window signs are valid for twelve months, and may be renewed. Temporary window sign may be changed without permission, as long as size, color, and general design comply with the sign originally approved. Window signs listing hours of operation, emergency information, and the like (excluding product or service information or real estate signs) are exempt as long as the aggregate area of such sign(s) do not exceed one square foot.
2. **Special Events and Sales.** Special event and sales signs may be displayed on-premise in the Village Center District for a period not to exceed 5 consecutive days, and not more than 15 days per year. Such signs shall not exceed 4 square feet, nor 30 inches in any dimension. No more than two such signs are permitted per site, to be located at a distance of at least 200 feet apart.
3. **Freestanding Signs.** Supports for a freestanding sign shall not exceed a height of ten (10) feet above grade, and the highest point of the sign shall not exceed eight (8) feet in height.

§ 280.67      (Reserved)

§ 280.68      (Reserved)



## **ARTICLE VIII**

### **BUSINESS DISTRICT**

#### **§ 280.69      INTENT**

The intent and purpose of the Business District (B) is to delineate those areas suited for more intensive retail, wholesale, and commercial use that serve primarily the residents of the community.

#### **§ 280.70      PERMITTED USES**

Provided that the provisions of § 280.72-280.75 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. Bakery
- B. Bank
- C. Bowling alley
- D. Commercial vehicle
- E. Convenience/Mini-market w/o gas
- F. Day care center
- G. Day care, family home
- H. Grocery store
- I. Home occupation – Off-site or On-site
- J. News rack
- K. Low-profile business
- L. Offices – General
- M. Offices – One practicing professional in existing building
- N. Offices – More than one practicing professional
- O. Restaurant
- P. Roadside stand with peddler's license
- Q. Theater or concert hall
- R. Storage facility, indoor
- S. Accessory use/building/structure on same lot
- T. Agriculture, nursery
- U. Church or other place of worship
- V. Communication tower (co-location on existing tower)
- W. Cultural facilities (library, art gallery, museum, etc.)
- X. Public utility or transportation use (Office only)
- Y. Satellite dish (< 3' in diameter ground-mounted installations)
- Z. Satellite dish (> 3' in diameter and/or roof-mounted installations)

#### **§ 280.71      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

**§ 280.72      GENERAL PROVISIONS**

- A. Yard requirements. Side yards are not required for each business structure where said structure is part of a group of buildings designed as a shopping center, provided that, for each group of buildings, side yards are at least equal to the minimum specified in **Article IV**.

**§ 280.73      LANDSCAPING**

- A. When a nonresidential use is located adjacent to a residential use, such nonresidential use must be screened from the residential use by a landscaped buffer strip dense enough and high enough to reduce noise and screen out objectionable views.
- B. All land not used for building or parking and loading facilities shall be improved by grass, trees, shrubs and other forms of ground cover.
- C. For all landscaping regulations, see **§ 280.151**.

**§ 280.74      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

- A. Building height. In the B District, no business structure shall be erected or altered to exceed a height of 35 feet.
- B. Accessory structures. Accessory buildings shall meet the following requirements:
  - 1. Maximum height: 25 feet.
  - 2. Minimum distance from lot lines:
    - A. Front yard: No accessory building shall be permitted in front of the principal building
    - B. From side lot line: eight feet each side yard; provided, however, that any lot bordering on a residential district shall have a side yard width not less than 15 feet.
    - C. From rear lot line: five feet.

**§ 280.75      PARKING**

- A. All off-street parking areas, vehicle loading or service areas located within sight of the street must be screened from view using appropriate architectural or landscaping methods.
- B. Off-street parking areas, vehicle loading or service areas shall connect to any existing service alleys or adjacent parking areas, if available, to allow alternate means of egress.
- C. Proposed off-street parking areas should be located next to any adjacent exiting parking lots, if possible, to provide shared parking opportunities which can serve neighboring buildings simultaneously.

D. For all off-street parking regulations, see § **280.144B**.

§ **280.76**        **(Reserved)**

§ **280.77**        **(Reserved)**

§ **280.78**        **(Reserved)**

## **ARTICLE IX**

### **INDUSTRIAL DISTRICT**

#### **§ 280.79      INTENT**

The intent and purpose of the Industrial District (I) is to delineate those areas in the Village that are appropriately suited to manufacturing, process and industrial uses, and to preserve these areas for such uses and related uses that will not create a detrimental or significant adverse impact on the environment and the welfare of the community.

#### **§ 280.80      PERMITTED USES**

Provided that the provisions of § 280.82-280.85 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. Bowling alley
- B. Commercial vehicle
- C. Convenience/Mini-market w/o gas
- D. Drive-in movie
- E. Equipment rental or sales yard
- F. Grocery store
- G. News rack
- H. Offices – General
- I. Offices – More than one practicing professional
- J. Roadside stand with peddler's license
- K. Theater or concert hall
- L. Storage facility, indoor
- M. Accessory use/building/structure on same lot
- N. Communication tower (co-location on existing tower)
- O. Cultural facilities (library, art gallery, museum, etc.)
- P. Public utility or transportation use
  - 1. Office
  - 2. Repair, service and storage
- Q. Satellite dish (< 3' in diameter ground-mounted installations)
- R. Satellite dish (> 3' in diameter and/or roof-mounted installations)

#### **§ 280.81      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

#### **§ 280.82      GENERAL PROVISIONS**

- A. General maintenance. The owner or occupant shall maintain the roads, parking areas, grass, shrubs and trees in a clean and tidy manner. In the event that the owner or occupant (if the occupant has assumed such obligation under its lease of the property fails to do so, the Village Board reserves the right, after advance written notice, to have the necessary work performed and billed to the owner and/or occupant on the next tax bill.

B. Standards for the performance of all uses in an Industrial District shall conform to those set forth below:

1. Smoke and particulate matter. All uses shall meet the requirements of state and federal air pollution requirements in the district in which the use is located.
2. Noise. All noise shall be muffled so as not to be objectionable beyond the lot line due to intermittence, beat frequency or shrillness, in accordance with accepted sound-pressure levels as established by the Occupational Safety and Health Administration (OSHA).
3. Vibration. No group vibration shall be produced which is perceptible without instruments beyond the lot line.
4. Odor. No creation of odors of such intensity and character to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be permitted.
5. Glare and heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes, so as to be visible at the lot line or emission of heat 85 degrees Fahrenheit or more at the lot line shall be permitted.
6. Radiation. The emission of any radiation is prohibited without the approval of Steuben County Public Health, and in no event shall there be any radiation permitted beyond the lot lines in any district.

**§ 280.83      LANDSCAPING**

- A. Any required yards shall be landscaped with grass, trees and shrubs except when required for access drives, parking and loading or storage or other accessory uses. Required front yards shall not be devoted to any use except for access drives, sidewalks and landscaping.
- B. For all landscaping regulations, see § 280.151.

**§ 280.84      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

- A. Building height. In the I District, no business structure shall be erected or altered to exceed a height of 35 feet, except for required towers which shall be subject to special permits.
- B. Accessory structures. Accessory buildings shall meet the following requirements:
  1. Maximum height: 35 feet.
  2. Minimum distance from lot lines:
    - A. Front yard: No accessory building shall be permitted in front of the principal building

B. From side lot line: eight feet each side yard; provided, however, that any lot bordering on a residential district shall have a side yard or width of not less than 25 feet.

C. From rear lot line: eight feet.

**§ 280.85      PARKING**

A. No parking area, loading or maneuvering area shall be located less than 100 feet from any residential zoning district or less than 10 feet from any lot line adjoining any other zone.

B. For all off-street parking regulations, see § **280.144B**.

**§ 280.86      (Reserved)**

**§ 280.87      (Reserved)**

**§ 280.88      (Reserved)**

**ARTICLE X**  
**WEST WATER STREET DEVELOPMENT DISTRICT**

**§ 280.89      INTENT**

The intent and purpose of the West Water Street Development District (I-2) is to delineate those areas in the Village with special provisions and restrictions set by various groups. The zoned district requires individual development processes and permits specifically allowed uses.

**§ 280.90      PERMITTED USES**

Provided that the provisions of § 280.92-280.95 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. Commercial vehicle
- B. Low-profile business
- C. Office – General
- D. Offices – One practicing professional in existing building
- E. Offices – More than one practicing professional
- F. Storage facility, indoor
- G. Accessory use/building/structure on the same lot
- H. Communication tower (co-location on existing tower)
- I. Public utility or transportation use
  - 1. Office
  - 2. Repair, service and storage
- J. Satellite dish (< 3' in diameter ground-mounted installations)
- K. Satellite dish (> 3' in diameter and/or roof-mounted installations)

**§ 280.91      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

**§ 280.92      GENERAL PROVISIONS**

- A. All uses in the I-2 District shall conform to standards as set forth in § 280.82.
- B. In conjunction with deed restrictions set by Ingersall-Rand, development in the I-2 District shall only exist for uses listed in the “Schedule of Uses Table” as outlined in **Article III**. The Zoning Board of Appeals shall not grant use variances in the I-2 District.
- C. The Department of Environmental Conservation (DEC) shall be notified in any case where disturbance or excavation of soils occurs. The following procedures also apply:
  - 1. Construction, excavation, and development shall be consistent with the Remedial Work Plan and Soil Fill Management Protocol.

2. Construction, excavation, and development shall be consistent with all other protocol as deemed appropriate following notification to DEC.
- D. The use of groundwater is prohibited unless approved by DEC in which approval only applies to grantee.
- E. Applicant shall purchase Environmental Insurance as a condition of any application approval.
- F. 300 ft. “red zone” shall refer to management procedures applied by DEC. Site clean-up procedures apply for individual uses as outlined in the management plan.

**§ 280.93      LANDSCAPING**

- A. Any required yards shall be landscaped with grass, trees and shrubs except when required for access drives, parking and loading or storage or other accessory uses. Required front yards shall not be devoted to any use except for access drives, sidewalks and landscaping.
- B. For all landscaping regulations, see § 280.151.

**§ 280.94      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

- A. Building height. In the I-2 District, no business structure shall be erected or altered to exceed a height of three stories or 45 feet, except for required towers which shall be subject to special permits.
- B. Accessory structures. Accessory buildings shall meet the following requirements:
  1. Maximum height: 35 feet.
  2. Minimum distance from lot lines:
    - A. Front yard: No accessory building shall be permitted in front of the principal building
    - B. From side lot line: eight feet each side yard; provided, however, that any lot bordering on a residential district shall have a side yard or width of not less than 25 feet.
    - C. From rear lot line: eight feet.

**§ 280.95      PARKING**

- A. No parking area, loading or maneuvering area shall be located less than 100 feet from any residential zoning district or less than 10 feet from any lot line adjoining any other zone.
- B. For all off-street parking regulations, see § 280.144B.



§ 280.96	<u>(Reserved)</u>
§ 280.97	<u>(Reserved)</u>
§ 280.98	<u>(Reserved)</u>

## **ARTICLE XI**

### **CONSERVATION LAND DISTRICT**

#### **§ 280.99      INTENT**

The intent and purpose of the Conservation Land District (CL) is to delineate those existing substantially undeveloped portions of the Village that exhibit a rural character due to the lack of services and serious natural limitations to development, to preserve a cohesive network of open space, stream corridors, wetlands, steep slopes and other natural habitats and to limit the use of the remaining buildable land to less intensive, agricultural, forestry, recreational uses in conformance with the natural and man-made limitations.

#### **§ 280.100      PERMITTED USES**

Provided that the provisions of § 280.102-280.105 and those listed in **Article XIV** are met, the following uses shall be permitted pending site plan approval by the Code Enforcement Officer:

- A. Accessory use/building/structure on the same lot
- B. Recreational trail
- C. Amphitheater
- D. Outdoor classroom
- E. Public restroom building
- F. Nature center

#### **§ 280.101      USES PERMITTED BY SPECIAL USE PERMIT**

For uses permitted by special use permit, see **Article XVI**.

#### **§ 280.102      GENERAL PROVISIONS**

- A. An outdoor recreational facility located within five hundred (500) feet of a lot line for any existing residential use shall schedule all events to end prior to eleven o'clock p.m.
- B. The use of an outdoor public address (PA) system shall comply with § 280.156.
- C. Where such use abuts an existing residential use and is designed or intended to be operated or open for business any time after nine o'clock p.m., a buffer, in accordance with § 280.151, equal to the requirements for an industrial use shall be provided on the lot with such use.
- D. **Sanitary Requirements.**
  - 1. An outdoor recreational and/or amusement park use shall provide for adequate and safe public rest room and/or toilet facilities in accordance with the requirements of the NYS Department of Health and the NYS Uniform Fire Prevention and Building Code.

2. When temporary and/or portable restrooms are to be used to comply with this subsection, no less than four shall be provided

**§ 280.103      LANDSCAPING**

- A. All land not used for building or structural facilities shall be naturally preserved.
- B. For all landscaping regulations, see § 280.151.

**§ 280.104      BUILDING HEIGHT AND FLOOR AREA REQUIREMENTS**

- A. Building height. No residential building shall be erected or altered so as to exceed 25 feet in height.
- B. Accessory structures. All accessory buildings shall not be less than five feet from any principal structure.

**§ 280.105      PARKING**

For off-street parking regulations, see § 280.144B.

**§ 280.106      (Reserved)**

**§ 280.107      (Reserved)**

**§ 280.108      (Reserved)**

## **ARTICLE XII**

### **INCENTIVE ZONING**

#### **§ 280.109     AUTHORIZATION**

Pursuant to Section 7-703 of Village Law, the Village Board of Trustees is hereby empowered to provide for the granting of incentives subject to the conditions hereinafter set forth and such other conditions as the Village Board of Trustees deems necessary and appropriate that are consistent with the purposes of this section.

#### **§ 280.110     PURPOSE**

The purpose of providing a system of zoning incentives shall be to protect the natural and scenic qualities of open lands, to enhance sites and areas of special character or special historical, cultural, aesthetic or economic interest or value and to enable and encourage flexibility of design and careful management of land in recognition of land as a basic and valuable natural resource.

#### **§ 280.111     CONDITIONS**

The conditions referred to above are as follows:

- A. **CONSISTENCY WITH COMPREHENSIVE PLAN.** That the use of zoning incentives and the designation of the districts in which incentives apply, shall be established in accordance with the Village of Painted Post Comprehensive Plan as adopted on May 29, 2018 as amended, with special attention to Chapter 9: Land Use.
- B. **OPEN SPACE PROTECTION AREAS.**
  - 1. **Characteristics.** The open space protection areas which the zoning incentives are meant to protect shall consist of natural, scenic, recreational, or open land or sites of special historical, cultural, or aesthetic values.
  - 2. **Designation.** Open space protection areas are located within the Conservation Land District.
- C. **INCENTIVE AWARD AREAS.**
  - 1. **Characteristics.** Incentive Award Areas, in which zoning incentives may be authorized, shall contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection and shall exhibit no significant environmentally damaging consequences from the proposed development. Such increased development shall be compatible with the development otherwise permitted by the Village and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district.

- D. **EQUAL TAX BURDEN.** Where a project involving zoning incentives affects property in two or more school, special assessment or tax districts, it may not unreasonably transfer the tax burden between the taxpayers of such districts.
- E. **MAPPING.** Open Space Conservation Areas are coterminous with the Conservation Land District and Incentive Award Areas are other sites in which a density bonus incentive has been approved by the Planning Board.
- F. **ENVIRONMENTAL REVIEW.** Notwithstanding any other provision of law to the contrary, environmental quality review pursuant to article eight of the environmental conservation law for any action in a receiving district that utilizes development rights shall be conducted
- G. **CONSERVATION EASEMENTS.** One lot conservation easement per two dwelling unit bonus. A conservation easement on the equivalent of one lot located within the Conservation Land District shall be required for the granting of two additional housing units in excess of the density permitted in the underlying zoning sought as part of a proposed mixed-use development.
1. **The easement is noted on the deed.** The above conservation easement shall be issued by the Village to the applicant proposing the mixed-use development and to the landowner in the Conservation Land District to whose land the easement applies in a form suitable for recording in the registry of deeds at the Steuben County Clerk's office in the manner of other conveyances of interests in land affecting its title.
  2. **Easement enforcement.** That the burden upon land designated as an open space protection area located within the Conservation Land District shall be documented by an instrument duly executed by the grantor in the form of a conservation easement, as defined in title three of article forty-nine of the environmental conservation law, which burden upon such land shall be enforceable by the Village Board in addition to any other person or entity granted enforcement rights by the terms of the instrument. All provisions of law applicable to such conservation easements pursuant to such title shall apply with respect to conservation easements hereunder, except that the Village Board of Trustees may adopt standards pertaining to the duration of such easements that are more stringent than such standards promulgated by the department of environmental conservation pursuant to such title.
- H. **DENSITY BONUS INCENTIVES.**
1. An applicant may apply to the Planning Board for one or more density bonuses in exchange for providing amenities to the Village of Painted Post. The Planning Board may, at its discretion and subject to the standards and considerations set forth below, grant density bonuses as set forth for developments as an Incentive Award Area in exchange for an applicant providing one or more of the following amenities:
    - A. **Provision of a portion of publicly accessible walking trail.** Providing a portion of the established walking trail that shall contain a trailway having an average width

of not less than 25 feet unless a lesser width is permitted by the Planning Board. The trailway shall not be less than 15 feet wide at any point except where space constraints require a reduction in width. The trailway shall consist principally of paved or wood surfaces, but may also include landscaped areas, sitting areas, benches, gazebos and suitable lighting facilities. The dimensions and location of the trailway may be negotiated with the Planning Board.

- B. **Provision of public park or public open space.** Committing a significant portion of contiguous land to public park or public open space use, either by conveying the land to the Village for such purposes or by other means, such as covenants and deed restrictions.
- C. **Historic preservation.** preserving a significant portion of a building(s) or structure(s) identified by the Planning Board as being of historical, cultural or architectural significance.
- D. **Use of green building techniques.** After construction, the development would achieve LEED Gold certification or a similar level of standards. The Planning Board may modify the LEED certification level if the applicant is able to demonstrate that the particularities of the development warrant modification due to site constraints or financial hardships that are directly related to the development of the project. At a minimum, the applicant would have to achieve LEED Silver certification or similar standard. An applicant pursuing a similar standard would have to demonstrate that the green building technologies being incorporated into the project are of similar or greater efficiency in water and energy usage and produce a carbon footprint that is similar or smaller than the LEED Gold certification.
- E. **Brownfields remediation.** Environmental remediation work conducted on site that is not already substantially subsidized by state or other funding but is required in order for the development to take place.
- F. **Contribution to non-site-related infrastructure improvements.** As negotiated by the Planning Board, non-site-related improvements would be improvements that are not directly needed, required or related to the development of the proposed project but will be able to be utilized by the proposed project's residents or will indirectly improve the project or its site-related infrastructure. Infrastructure improvements may include sidewalk, street or water and sewer system improvements. This list is not exhaustive, and the Village Engineer may provide recommendations to the Planning Board.
- G. **Provision of public artwork.** Incorporation of publicly accessible artwork, sculpture, monument or other permanent aesthetic structure on a development site or at a designated off-site location as negotiated by the Planning Board.

- H. **Streambank restoration or stabilization.** Maximizing and facilitating streambank restoration or stabilization of tributaries of the Susquehanna River or other local streams.
2. The Planning Board shall grant a density bonus of 10% for each amenity offered, provided that the Planning Board finds that the amenity is proportional to such density bonus. Notwithstanding the foregoing, such bonus(es) shall not exceed the maximum number of dwelling units specified in the “Density Control Schedule” as part of **Article IV**.
  3. The bonus permitted under this subsection is a bonus in permissible density only and does not authorize deviation from or enlargement of any bulk or lot coverage restrictions.
  4. In awarding a bonus for the amenities listed above, the Planning Board shall:
    - A. Consider the incentives being proposed by the applicant and the degree to which the proposed amenity is compatible with the goals and objectives for the zoning district and the Village as a whole.
    - B. Set forth, in detail, the amenities to be provided by the applicant, how those amenities further the purposes of the Comprehensive Plan, and, in particular, how they preserve and enhance the unique aesthetic, recreational, environmental and/or historic qualities and features of this district for the benefit and enjoyment of the entire community and otherwise promote the public health, safety and welfare of the community.
    - C. Set forth, in detail, the relationship between the amenities being provided and the bonus being awarded and shall specify the rationale supporting the proportionality of the amenities to the bonus. The public benefit improvements provided shall be roughly proportional in nature and extent to the bonus granted, and their proportionality shall be demonstrated by the applicant and agreed to by the Planning Board. The cost of the improvements need not equal the value of the benefits granted.
- I. **ASSESSED VALUE ADJUSTMENT.** That within one year after an incentive award area is approved, the assessed valuation placed on the affected properties for real property tax purposes shall be adjusted to reflect the imposition of easements and the award of additional dwelling units as zoning incentives.

#### **§ 280.112     PROCEDURE**

- A. **APPLICATION CONTENT.** An applicant for an incentive award shall file the following information with the Village Board of Trustees in addition to information required in accordance with **Article XIII** Site Plan Review Process.

1. **Open Space Protection Area characteristics.** The location, land area and number of residential lots for which an easement is proposed as determined through Section 280.27 Buildable Land Calculations
2. **Incentive Award Area characteristics.** The location and land area of the site for which an Incentive Award Area is proposed, the projected number of dwelling units that would result on the site from such development in excess of the underlying zoning and a statement of the character of the projected housing development, if applicable.
3. **Impact Narrative.** A narrative describing the reasonable and beneficial results anticipated from the authorization applied for with respect to the implementation of the Comprehensive Plan as amended.

B. **PLANNING BOARD REVIEW.** The Planning Board report to the Village Board shall consider all aspects of the proposal, particularly that of the degree to which the proposal implements the Comprehensive Plan.

#### **§ 280.113      PUBLIC HEARING**

- A. **REQUIREMENT.** In every case where Incentive Zoning is requested, the Planning Board shall award such application only after:
1. A public hearing has been held.
- B. **CONDUCT.** The public hearing shall be conducted within sixty-two (62) days from the day a complete application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Village at least five (5) days prior to the date of the public hearing. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Village clerk within five business days after such decision is rendered, and a copy mailed to the applicant.

#### **§ 280.114      CONDITIONS UPON APPROVAL**

The following conditions are in addition to those found in above.

- A. **LEGAL TRANSFER DOCUMENTS.** Execution of an instrument legally sufficient both in form and content to affect such easement upon the property designated as an Open Space Protection Area to the Village of Painted Post or such other governmental agency or appropriate organization.
- B. **REMAINING BUILDABLE LOTS.** Where buildable lots remain, said instrument shall specify the number of remaining buildable lots attributed to said property upon the approval of the Incentive Award Area.



§ 280.115     (Reserved)  
§ 280.116     (Reserved)  
§ 280.117     (Reserved)  
§ 280.118     (Reserved)  
§ 280.119     (Reserved)

## **ARTICLE XIII**

### **SITE PLAN REVIEW PROCESS**

#### **§ 280.120     INTENT**

The intent of site plan review is to ensure compliance with the objectives of this Law and with regard to specified uses that may be permitted in the Village of Painted Post as noted in **Section 280.18** Use Regulations and as shown on the related Schedule of Uses Table. The objective is to evaluate a land use in terms of potential conflict between existing and proposed uses or with natural site conditions and thereby minimize the adverse effects concerning health, safety, and overall welfare of the residents of the community.

#### **§ 280.121     AUTHORIZATION**

The power to approve, approve with modification, or deny site plans submitted as part of a Special Use Permit as required by **Article XVI** of this law is vested in the Village Planning Board pursuant to Section 7-725-a of Village Law. The power to approve, approve with modification, or deny site plans as required for all other permitted uses is vested in the Code Enforcement Officer. Prior to issuing a building permit or certificate of occupancy for any specified use, a site plan and supporting documentation shall be submitted to either the Planning Board or Code Enforcement Officer for its review and approval. The Planning Board or Code Enforcement Officer in its review of any site plan shall be guided by the criteria set forth in this Article and the standards and guidelines set forth in the following portions of this Law:

- A. Article V: Low-Density Residential District
- B. Article VI: Medium-Density Residential District
- C. Article VII: Village Center District
- D. Article VIII: Business District
- E. Article IX: Industrial District
- F. Article X: West Water Street Development District
- G. Article XI: Conservation Land District
- H. Article XIV: Development Guidelines and General Provisions

The Village Planning Board or Code Enforcement Officer may require that a site plan be prepared by a licensed architect or engineer. Such requirement shall depend upon the complexity of the natural features at the site and the proposed structures or uses, including the existence of public improvements, such as roads, water and sewer, to be dedicated to the Village.

#### **§ 280.122     WAIVER OF REQUIREMENTS**

The Planning Board may waive any such requirements that are clearly not relevant to the site and the proposed use.

#### **§ 280.123     CONCEPT PLAN CONFERENCE**

The concept plan submittal is optional. The purpose of this step is to encourage the person applying for a use subject to site plan review an opportunity to consult early and informally with the

Planning Board or Code Enforcement Officer in order to save time and money and to facilitate opportunities for desirable development.

- A. **REQUIREMENTS.** A concept plan shall be prepared and submitted in triplicate to the Planning Board or Code Enforcement Officer. Before preparing a concept layout, the developer may discuss with the Planning Board, Code Enforcement Officer or the Village planning consultant the general requirement as to design of streets, reservations of land, drainage, sewerage, water supply, fire protection, and other improvements as well as procedural matters. Developers of land adjoining state or county highways are advised to consult with the district engineer of New York State Department of Transportation or the Village or County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning Board or Code Enforcement Officer shall provide written comments on the current plan of a proposed development in relation to the applicable requirements of this Article, to existing or potential development of the adjacent area, the Village Comprehensive Plan as amended, and in the course of its review may consult with other interested public agencies.
- B. **PLAN CONTENT.** The concept plan shall include in as much detail as possible the following information:
  1. An area map showing:
    - A. That portion of the applicant's property under consideration for development and any contiguous parcels owned by the applicant.
    - B. A copy of the Village of Painted Post Zoning Map locating the property.
    - C. A copy of the Village of Painted Post Flood Boundary and Floodway Map locating the property, if applicable.
    - D. A copy of a map of site topography (United States Geological Survey topographic map).
    - E. A copy of the Steuben County Soils Map locating the property if general grades exceed fifteen (15%) percent or portions of the site have susceptibility to erosion, flooding or ponding.
    - F. A site development map, generally to scale, showing all proposed structures and improvements. An aerial photograph depicting vegetation, hedgerows, waterbodies and other features of the site.
    - G. Name/Address of applicant and/or site owner, if different.
    - H. Concise description of the nature of the applicant's business.

**§ 280.124      SITE PLAN APPLICATIONS FOR SPECIAL USE PERMITS**

**Applicants shall be directed to the Code Enforcement Officer by the Village Clerk for the appropriate forms. The CEO shall review the application for completeness.** Application for site plan approval as required for any Special Use Permit application shall be made in writing, to the Village Clerk at least fifteen (15) days prior to a scheduled Village Planning Board meeting. The Village Clerk shall forward all such site plan applications to the Planning Board for its review and approval. For the purposes of this Law, the submission date shall be taken as the date of the first regular Village Planning Board meeting following the receipt of a site plan application by the Village Clerk. The application shall be submitted in triplicate and shall be accompanied by the information listed below in a form prescribed by the Planning Board. The Village Planning Board may at its discretion waive any requirements of the preliminary site plan which are clearly not relevant to the site and proposed use or required in the interest of public health, safety, or general welfare.

**§ 280.125      SITE PLAN REQUIREMENTS**

- A. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and any contiguous parcels owned by the applicant, as well as, all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred (500) feet of applicant's property.
- B. A site plan shall include but is not limited to the following information:
  - 1. Title of drawing, including name and address of applicant.
  - 2. North point, scale and date.
  - 3. Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch on a survey map prepared by a New York licensed surveyor.
  - 4. Existing natural features such as watercourses, waterbodies, wetlands, drainage ways wooded areas and individual large trees, one hundred (100) year flood hazard areas, the aquifer and the watershed tributary area. Features to be retained shall be noted.
  - 5. Existing and proposed contours at intervals of not more than two (2) foot contour intervals.
  - 6. Location of proposed land uses and their areas in acres.
  - 7. Location, proposed use and height of all buildings.
  - 8. Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
  - 9. Description of sewage disposal and water systems and location of such facilities.
  - 10. Location and proposed development of buffer areas and other landscaping.

11. Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and calculation of the residential density in dwelling units *per gross acre* for each such area.
12. Location of all parking and truck-loading areas, with access and egress drives thereto.
13. Location, design and size of all signs and lighting facilities.
14. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.
15. Building orientation and site design for energy efficiency.
16. Location and design of all energy distribution facilities, including electrical, gas and solar energy.
17. Grading, erosion and sediment control. Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc. as specified in "The Stormwater Management and Erosion Control Plan (Structure and Content), Appendix F of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities."
18. Location and design for stormwater management facilities. Description of the arrangements that will be made for ensuring long-term maintenance of stormwater management and erosion control facilities. Backup contingency plan shall be provided and described. Those responsible for performing maintenance shall be identified.
19. Description of hazardous materials to be used or stored on site and the location of such storage facilities.
20. Description and methods and locations for disposal of construction demolition debris.
21. Drainage report including the location and design of stormwater management facilities, supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities as specified in "The Stormwater Management and Erosion Control Plan (Structure and Content). Appendix F of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities."
22. The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.

C. The Village Planning Board or Code Enforcement Officer may require such additional information that appears necessary for a complete assessment of the project.

- D. The Village Planning Board or Code Enforcement Officer's review of the site plan shall include, but is not limited to, the following considerations:
1. Adequacy and arrangement of vehicular traffic access and circulation.
  2. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  3. Location, arrangement, size and design of buildings, lighting and signs.
  4. Relationship of the various uses to one another and their scale.
  5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands.
  6. Adequacy of storm water, erosion control and sanitary waste disposal designed to protect surface water and groundwater resources.
  7. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding and/or erosion.
  8. Compatibility of development with natural features of the site and with surrounding land uses.
  9. Adequacy of floodproofing, elevation, and protection measures consistent with flood hazard prevention district regulations.
  10. Adequacy of methods and locations for disposal of construction demolition debris designed to protect groundwater resources.
  11. Adequacy of hazardous material storage facilities designed to protect groundwater resources.
  12. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.
  13. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
  14. Adequacy of pedestrian access, circulation, convenience and safety.
- E. In their review of a site plan, the Planning Board or Code Enforcement Officer may consult with the opposite entity, fire commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Natural Resources Conservation Service, and the State Departments of Transportation and Environmental Conservation.

**§ 280.126      APPLICATION FOR AN AREA VARIANCE**

Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with these zoning regulations, the Planning Board or Code Enforcement Officer shall direct the applicant to the Zoning Board of Appeals for an area variance pursuant to 7-712-b of Village Law, without the necessity of any other decision or determination.

**§ 280.127      CONDITIONS**

The Planning Board or Code Enforcement Officer 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 Enforcement Officer.

**§ 280.128      RESERVATION OF PARKLAND**

- A. **REQUIREMENT BEFORE APPROVAL.** Before the Planning Board may approve a Site Plan containing residential units, such Site Plan shall also show, when required by the Planning Board, a park or parks suitably located for playground or other recreational purposes.
- B. **FINDINGS.** 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.
- C. **PAYMENT IN LIEU OF LAND.** In the event the Planning Board makes a finding pursuant to paragraph 280.128B above 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 requirement 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. In making such determination of suitability, the Village 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.
- D. **LAND IN APPROVED SUBDIVISION.** Notwithstanding the foregoing provisions of this section, if the land included in a site plan under review is a portion of a subdivision plat which has been properly reviewed and approved, the Village 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.

**§ 280.129      PERFORMANCE BOND OR OTHER SECURITY**

As an alternative to the installation of required infrastructure and improvements, prior to approval by the Planning Board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Village Public Works Department, where such departmental estimate is deemed acceptable by the Village Planning Board, shall be furnished to the Village by the owner. Such security shall be provided to the Village pursuant to the provisions of Subdivision nine (9) of Section 7-730 of Village Law.

**§ 280.130      PUBLIC HEARING**

The Planning Board shall schedule a public hearing within sixty-two (62) days of the Planning Board's determination that the site plan application is complete and satisfactory.

Ten days before said hearing, the Planning Board shall mail notice to the applicant and shall give public notice of said hearing at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Village.

**§ 280.131      NOTICE TO METROPOLITAN, REGIONAL, OR COUNTY PLANNING AGENCY**

The Planning Board shall give written notice at least ten (10) days prior to the date of the public hearing to any required municipal, county, regional, metropolitan, state or federal agency including housing authorities, municipalities and state parks within five hundred (500) feet of the property affected by the site plan in accordance to Section 239M of the General Municipal Law.

**§ 280.132      COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT**

The Planning Board shall comply with the provisions of the NYS Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

**§ 280.133      NOTIFICATION OF DECISION ON SITE PLAN**

Within sixty-two (62) days of the public hearing on the site plan, the Village Planning Board or Code Enforcement Officer shall render a decision. Such time period may be extended upon mutual agreement of the Village Planning Board and the applicant. The Village Planning Board shall file its decision in the office of the Village clerk within five business days after such decision is rendered and shall mail a copy to the applicant. A copy of the appropriate minutes may suffice for this notice.

- A. Upon approval, or approval with modifications, the Board shall endorse the approval on a copy of the site plan and shall also forward it to the Enforcement Officer who may then issue any required building permit following the thirty (30) day appeal period if the project conforms to all other applicable requirements.



- B. Upon disapproval, the Board shall so inform the Enforcement Officer and he shall deny a building permit.
- C. Specifications for improvements shown on the site plan shall be those set forth in this Law and in other ordinances, rules and regulations, or in construction specifications of the Village of Painted Post.

**§ 280.134      COURT REVIEW**

The applicant or any interested person may appeal a decision of the Village Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after filing of a decision on a final site plan application by the Planning Board in the office of the Village Clerk.

**§ 280.135      COSTS**

Costs shall not be allowed against the Planning Board unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

**§ 280.136      PREFERENCE**

All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

**§ 280.137      (Reserved)**

**§ 280.138      (Reserved)**

**§ 280.139      (Reserved)**

**§ 280.140      (Reserved)**

**§ 280.141      (Reserved)**

**ARTICLE XIV**  
**DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS**

**§ 280.142      GENERAL**

The Planning Board in reviewing site plans and special use permits shall be guided by the considerations and standards presented in this Article. In the review, they shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. For permitted uses the Enforcement Officer shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

**§ 280.143      LOTS AND BLOCKS**

- A. **LOT SIZE AND ARRANGEMENT.** The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build. In general, side lot lines shall be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.
- B. **ACCESS.** Insofar as possible, lots shall not derive access from a major road. Access to lots adjacent to a major road shall, in general, be from marginal access streets or other streets within the development. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other storm water drainage facilities in the development.

**§ 280.144      STREET, ROAD, AND PAVEMENT DESIGN**

Design of all streets and their improvements must meet the Village specifications. The Superintendent of Public Works shall approve the design and construction of all proposed streets and improvements.

- A. **SIDEWALKS.** Concrete sidewalks at least five (5) feet wide shall be required on both sides of all streets. They shall also be required within pedestrian easements through blocks to provide a system of pedestrian walkways to schools, parks, and other community facilities. Sidewalks shall be two (2) feet from the property line inside the right-of-way, unless the adjacent street is a state or county highway, in which case the sidewalk shall be placed adjacent to and outside of the right-of-way. Sidewalks within pedestrian easements shall be generally centered within the easement. Permeable pavers shall be considered in designing and constructing new sidewalks.
- B. **TREES.** The developer shall take adequate measures to preserve desirable existing trees in suitable locations within the development. Street trees may be planted on both sides of the street and ten (10) feet outside the right-of-way, at intervals of approximately fifty (50) feet, subject to location of drives, street intersections, or other features. In general, the street right-of-way shall be cleared of existing trees, but occasional existing trees of unusual

value may be preserved within the street right-of-way if approved by the Village Planning Board.

- C. **STREET NAMES AND SIGNS.** All streets shall be named, and such names shall be subject to the approval of the Village Board. A street which is a continuation of an existing street shall bear the same name. Relating street names to features of local historical, topographical, or other natural interest is encouraged. Street signs shall be provided by the developer at all intersections and shall be of a type approved by the Superintendent of Public Works.
- D. **STREET IMPROVEMENTS - GENERAL.** In addition to the required improvements specifically referred to elsewhere in these regulations, developers shall provide for all other customary elements of street construction and utility service which may be appropriate in each location as determined by the Village. Such elements may include, but shall not be limited to, street lighting standards, inlets, manholes, curbs, sidewalks, street lighting standards, water mains, fire hydrants, fire alarm signal devices, and sanitary sewers. Underground utilities within the street right-of-way shall be located as required by the Village and underground service connections to the property line of each lot shall be installed before the road is paved. All street improvements and other construction features of the development shall conform to municipal specifications which may be established from time to time and shall be subject to approval as to design, specifications, and construction by the Superintendent of Public Works.
- E. **WIDENING OF EXISTING STREET RIGHT-OF-WAY.** Where a development adjoins an existing street, which does not conform to the Village right-of-way standards, the developer shall dedicate whatever additional right-of-way width is necessary to provide, on the development side of the normal street centerline, a width which is equal to at least one-half of the minimum standard width for the respective type of street.
- F. **DESIGNATION OF STREETS.** Every street shown on a site plan or plat that is hereafter filed in the office of the County Clerk shall be deemed to be a private street until such time as it is formally accepted as a public street by resolution of the Village Board of Trustees, or alternatively condemned by the municipality for use as a public street.

## **§ 280.145      OFF-STREET PARKING**

### **A. GENERAL REQUIREMENTS.**

- 1. **Site Plan Review.** The creation, expansion, or significant alteration of off-street parking facilities is subject to site plan review and approval by the Code Enforcement Officer or Planning Board, whichever applies.
- 2. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required in the listing below for any use which is erected, enlarged, or altered after the effective date of this law.

3. A parking space shall be considered adequate if it is not less than one hundred sixty-two (162) square feet (18X9) exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to street or alley.
4. No exit or entrance drive connecting a parking area and a street shall be permitted within thirty (30) feet of the intersection of two public rights-of-way.
5. Where appropriate, the Zoning Board of Appeals, may upon the presentation of evidence, vary the number and circumstance of the following parking space requirements, in order that the general welfare be served and the prospective uses be equitably treated.
6. Uses not permitted within residential districts shall not locate their parking within residentially zoned districts.
7. The lighting of off-street parking lots shall not be directed into adjacent properties. Dark sky lighting shall be utilized in all lots.
8. All off-street parking shall be paved, surfaced or covered so as to be well-drained. Impervious surfaces shall be minimized wherever practical. Runoff water shall be redirected so that land is available to absorb storm water and to reduce polluted runoff and flooding. Constructions of pervious roadways are preferred and shall be considered during design.

#### **B. OFF-STREET PARKING REQUIREMENT**

<b>USE</b>	<b>REQUIREMENT</b>
<b>1. Residential</b>	
- One and two-family	One space per dwelling unit LDR District – two spaces per dwelling unit
- Multi-family	One space per dwelling unit
- Home Occupation	Two spaces for each person or employee engaged in any home occupation
<b>2. Public</b>	
- Hospitals, sanitariums, nursing homes	One space for every two beds <u>plus</u> one for every two employees
- Places of public assembly (churches, auditoriums, theaters)	One space for every five seats
- Elementary and intermediary schools	One space per employee plus one space for every fifteen students
- High schools and colleges	Five spaces for each classroom
<b>3. Commercial, Office, Business</b>	
- Tourists home, rooming house	One space per bedroom
- Hotels, motels	One space per unit plus one space for every five seats in any associated restaurant
- Offices (professional, personal service,	3 spaces per 1,000 square feet of gross office floor area

public/private utility)	
- Service retail	4spaces per 1,000 square feet of gross floor area
- Retail	4spaces per 1,000 square feet of gross floor area
- Public/private membership clubs	One space per one hundred square feet of gross floor area
- Restaurants/bars/taverns	Once space per four seats
- Roadside stands	One space per fifty square feet of area devoted to selling or display
- Wholesale	One space per employee plus one space per seven hundred square feet of patron serving area
<b>4. Industrial</b>	
- Industrial	Two spaces per three employees on the main shift
<b>5. Recreational</b>	
- Recreational	Parking prohibited

5. Spaces in municipal lots, where provided, may be credited toward the parking requirements for these uses, provided that:

- A. These spaces are within four hundred (400) feet of the uses to be served;
  - B. The parking needs for existing facilities (within four hundred (400) feet and computed on the same basis as for new facilities) are satisfied first, and only excess capacity is used for this purpose; and
  - C. The Village Board approves such use.
6. Other uses not specifically listed above shall furnish such parking as required by the Village Planning Board. The Village Planning Board shall use the above requirements as a guide for other uses.

**C. CALCULATION OF REQUIRED SPACE.** In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately. If a portion of floor area, not less than one hundred (100) contiguous square feet in a retail store will be used exclusively for storage of merchandise which is not being displayed for sale, such space may be deducted in computing parking requirements, but the owner shall not thereafter use the space for any other purpose without furnishing additional off-street parking as required by this law.

**D. JOINT USE OF FACILITIES.** The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use. Documentation shall clearly outline parking preferences.

- E. **LOCATION OF PARKING FACILITIES.** Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or on another parcel not farther than two hundred fifty (250) feet from the building or use they are intended to serve, measured in a straight line from the building. The burden of proving the existence of such off-premise parking arrangements rests upon the person who has the responsibility of providing parking.
- F. **USE OF COMMERCIAL PARKING LOTS.** Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- G. **PARKING, FRONT YARD.** Unless otherwise provided, required parking and loading spaces shall not be located in any required front yard, except in the case of single or two-family dwelling, but such space may be located within a required side or rear yards. Parking located in a rear yard will be given preference.
- H. **DEVELOPMENT AND MAINTENANCE STANDARDS FOR OFF-STREET PARKING.** Every parcel of land hereafter used as a public or private parking area shall be developed as follows:
1. An off-street parking area for more than five (5) vehicles shall be effectively screened by a sight-obscuring fence, hedge, or planting, on each side which adjoins property situated in a residential area or premises, or any school or like institution.
  2. Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light ray directory upon any adjoining property. Dark sky lighting shall be utilized in all lots.
  3. Except for single-family and duplex dwelling, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering with a road or right-of-way.
  4. In a multiple residence development, parking shall be so distributed as to service the individual units. There shall be no more than two hundred (200) feet between car and door. Parking lots shall be kept small and in other ways broken up into smaller units through provision of islands and plantings. Parking spaces shall not run continuous more than ten (10) adjacent spaces.
  5. Single, large parking areas shall be avoided and instead, the lots shall be broken into smaller units through the provision of islands and plantings. The design shall reflect the difference between through aisles for the relatively unobstructed conduct of traffic through the area and interior aisles for the purpose of providing access to the individual parking stalls. Provision for safe and direct pedestrian movements from the parking areas to the buildings shall be required.
  6. Up to 20% required off-street parking spaces may be land banked until developer or planning board determines that additional capacity is required. Approval of the building of

“banked” spaces should be contingent on inclusion of those spaces’ “built out” impacts on the project’s stormwater management plan.

7. Landscaping. Lots with 15 spaces or more shall be 10% landscaped with “at grade” or “below grade” infiltration or bioretention systems.
8. Parking shall be screened from highways and residential areas with evergreen landscaping, low berms, and/or opaque fences or walls.

## § 280.146 **OFF-STREET LOADING**

- A. **DIMENSIONS FOR OFF-STREET LOADING BERTHS.** Each required loading berth (open or enclosed) shall have the following minimum dimensions: 55 feet long, 12 feet wide, and 14 feet high, except that berths for funeral homes may be 20 feet long, 10 feet wide and 8 feet high.
- B. **LOCATION OF REQUIRED BERTHS.** All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off-street loading areas shall not encroach on any required front or side yard, access way or off-street parking areas except in business districts. Off-street parking areas where they exist may be used for loading or unloading, provided that such spaces shall not be used for more than three (3) hours during the daily period that the establishment is open for business.
- C. **LANDSCAPING.** All loading berths that abut a residential lot line, shall be screened by a six-foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property. All loading areas and landscaping shall be properly maintained thereafter in a well-kept condition.
- D. **REQUIREMENTS.**

<u>Use</u>	<u>Gross Floor Area (Square feet)</u>	<u>Unloading Berths</u>
Retail stores Wholesale establishments Storage uses Other commercial uses	3,000 – 15,000	1
	15,001 – 40,000	2
	Each additional 25,000	1 additional
Motels or hotels Office buildings	100,000 or less	1
	100,001 – 300,000	2
	Each additional 200,000	1 additional
Industrial	15,000 or less	1
	15,001 – 40,000	2
	40,000 – 100,000	3
	Each additional 40,000	1 additional

§ 280.147     **SIGNS**

A. **Intent and purpose.** No sign shall be erected, altered, expanded, reconstructed, replaced or relocated on any property except in conformance with the provisions of this article and all other applicable ordinances and regulations of the village. **All signs in excess of sixteen (16) square feet shall require a building permit and shall comply with applicable regulations of the Building Code.** Repainting or refacing an existing sign or making minor non-structural repairs is exempt from review.

B. **General sign regulations.**

1. Sign area shall be measured within a continuous perimeter enclosing the entire display face of the sign, including background, framing, trim, molding and other borders, but excluding supports and uprights unless the combined width of such supports or uprights exceeds 25% of the width of the sign face being supported or unless such supports of any width are designed as an integral part of the display for the purpose of illustration or attraction (Note: the provisions concerning support measurement shall not apply to *monument* signs). Where a sign consists of two identical parallel faces which are back to back and located not more than twenty-four inches (24") from each other, or in a "V" arrangement where distance between the unattached ends of the "V" is forty-eight (48) inches or less, only one side of such sign shall be used in computing the area. The area of signs with more than two (2) faces or with faces which do not meet the preceding allowances shall be the sum of the areas of all the sign faces. The area of a cylindrical sign shall be computed by multiplying one-half (1/2) the circumference by the height of the sign. Where individual letters, characters or figures are mounted so as to use a building facade as a background, the area of such sign shall be determined by computing the sum of the area within the outer perimeter of each individual character or figures comprising the total message, symbol or advertisement.
2. The maximum allowable accumulative sign area permitted on any parcel shall be calculated with respect to the principal street frontages of a parcel to which the parcel has direct access. Unless otherwise specified, the maximum allowable accumulative area shall be based on the width of the face of the principal building parallel or nearly so to the street frontages. All permanent signs, unless specifically exempted by the terms of this article, shall be counted in the calculation of maximum accumulative sign area. In no event shall the aggregate wall sign area for a building, or for an individual tenant space if the building consists of multiple attached units, be allowed to exceed 240 square feet.
3. The height of signs shall be the vertical distance measured from the average finished grade ground elevation of the area surrounding and within ten feet (10') of to the highest point of the sign. The maximum allowable height of signs shall be as specified by the regulations established herein. If the adjoining road surface elevation is more than five (5) feet above the average finished grade where the sign will be located, then the sign height may be increased by one (1) foot for each two (2) feet of elevation difference in excess of five (5), up to a maximum additional height allowance of ten (10) feet.



4. The bottom of all projecting or hanging signs must be at least 8' in height above ground level
5. Any sign pertaining to a nonconforming business, commercial or industrial use located within a residential district, shall be deemed a nonconforming structure.
6. If site plan approval is required for any use or activity on same parcel where sign is to be erected, no signs shall be permitted until site plan approval has been issued for the subject use or activity.
7. No sign, other than a sign approved or installed by the New York State Department of Transportation, shall be located within or over any public right-of-way. No permanent or temporary sign shall be erected or placed in a road right-of-way or at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position, shape, or color of the sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or character in such a manner as to interfere with, mislead or confuse traffic
8. No sign, whether permanent or temporary, shall be attached to trees, utility poles or other supporting structures, unless specifically authorized by the zoning administrator.
9. Except in the case of corner and through lots, not more than one (1) permanent free-standing sign shall be permitted for each lot or parcel. The minimum setback of any free-standing sign, or any portion thereof, from any property line shall be ten feet (10'). Corner and through lots shall be entitled to one (1) free-standing sign for each road frontage provided, however, that this provision shall not apply along road frontages where restricted access easements are in place.
10. No sign, whether temporary or permanent, shall extend over or above the ridge line of any roof or the top of any parapet wall of a building.
11. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways, or parking areas. Light shall not shine or reflect in an offensive manner on or into residential structures or motels. No exposed reflective type bulbs or incandescent lamps shall be used on the exterior surface of any sign in such a manner that will cause offensive glare on adjacent property or create a traffic hazard.
12. A landscaped planting area shall be provided around the base of any free-standing identification sign. The planting area shall contain four (4) times the area of the sign, be a minimum of six feet (6') in width, be protected from vehicular encroachment, and be landscaped with a combination of trees, low-growing shrubs and/or groundcovers (other than grass).
13. No communications tower, aerial array, satellite dish, or accessory facility shall display any signs, except for safety signs.

D. **Permitted signs.** The following table indicates the functional class, structural class, area, height, and type of illumination of signs permitted within each of the zoning districts prescribed by this chapter.

Zoning Districts Where Permitted	Structural Class			Illumination Type		Maximum Free-standing Sign Area (sq. ft.)		Maximum Free- standing Sign Height (ft.)		Maximum Cumulative Sign Area per lot or parcel exclusive of free-standing sign
	Free-standing		Building Mounted (Marquee/ Canopy, Projecting, Wall)							
	Monument	Pole		Internal	External	Monument	Pole	Monument	Pole	
C	X	X	X				12	6	6	20 sq. ft.
LDR, MDR	X	X	X	X	X	32	24	6	8	1 sq. ft. per linear foot of principal bldg. width
B	X	X	X	X	X	40	32	6	10	1.25 sq. ft. per linear foot of principal bldg. width
I, I-2	X	X	X	X	X	64	50	10	15	1.5 sq. ft. per linear foot of principal bldg. width
VC	X	X	X		X	9	9	6	8	wall sign maximum of 5 sq. ft.; hanging sign maximum of 6 sq. ft.

E. **Temporary signs.**

1. No temporary sign shall be placed on public property without the written consent from the Village Board of Trustees or their agent. Violations will result in the immediate removal and disposal of the sign by the Village Police Department/DPW.
2. The following temporary signs and banners are allowed. Such signs shall not count against the normal sign area allowances for the property on which located. All temporary signs and banners shall be subject to the setback standards applicable to permanent signs. Freestanding temporary signs and banners shall be limited to one (1) per street frontage per individual parcel; building mounted temporary banners shall be limited to one per business establishment/tenant space with its own individual exterior entrance:

A. Banners or other temporary signs not exceeding forty (40) square feet in area and 6' in height which promote a temporary activity.

3. Such temporary signs or banners must be on the site of such business. Only one (1) building- mounted or one (1) freestanding sign shall be permitted per street frontage. The duration of such sign shall not exceed thirty (90) days in any single 12-month period. The 90-days maximum display allowance may be used as 90 consecutive days or may be broken into as many as six (6) separate time periods during the course of a 12-month period.
  4. The 90-day maximum display limit shall not apply in the case of properties having access to and from a road undergoing reconstruction, and instead the allowable display period shall be the duration of the road construction project. Properties eligible for this allowance shall be those located within the official project property as defined by and identified on the approved project plans. The project duration shall be considered to be the time between the actual commencement of land or pavement disturbing construction activity and the re-opening of all lanes of travel in their state of final completion.
  5. With the approval of the New York Department of Transportation, the zoning administrator may authorize banners to be suspended above a public road right-of-way for a period not to exceed seven (7) days or the duration of the event being announced or promoted plus three (3) days, whichever shall be greater.
- F. **Sidewalk signs.** Sidewalk signs are subject to the following standards and conditions. Such signs shall not count against the normal sign area allowances for the property on which located.
1. One non-illuminated sidewalk sign is allowed per business establishment having an exterior customer/client entrance. In the event a structure houses multiple businesses sharing a common customer entrance, two sidewalk signs may be authorized provided that the two signs are no closer than 30 feet to one another. Nothing shall prevent the identification of more than one of the businesses located on the premises on a single sign.
  2. The placement of sidewalk signs shall be limited to a location within fifteen feet (15') of the front (i.e., between the imaginary extension of the side walls of the building) of the establishment to which it refers and not more than thirty feet (30') from the main customer/client entrance of the establishment.
  3. Sign area shall not exceed 6 square feet (e.g., each face of a double-sided or A-frame sign). Maximum height shall be 4 feet. Maximum width shall be 2'6".
  4. Sidewalk signs shall be constructed of durable materials, sufficient to withstand inclement weather. Sidewalk signs shall not be constructed of glass.
  5. The sign face may include permanent/fixed copy (e.g., painted on the surface) and changeable copy. Acceptable materials for changeable copy sidewalk signs may include chalk, dry-erase, removable letters, or other similar types of boards on which the messages can be easily and frequently changed.

6. The sign shall be of sufficient weight to prevent it from becoming a hazard in windy conditions or from being overturned by contact. Weights, if required, must be incorporated into the sign design and construction. The use of sandbags, bricks or similar items to add weight to the sign is not allowed.
7. No temporary posters, letters, flyers, balloons, pennants, flags, or other attention-getting devices may be attached to the sign. Mobile or moving sign copy or sign parts shall not be permitted.
8. The sign placement shall not prevent the sidewalk from being accessible as required by the Americans with Disabilities Act, nor shall it cause the unobstructed, clear-path of the walkway to be less than four feet (4') in width.
9. No sign shall be located within or closer than two feet (2') from curbs, driveways, parking lots or any other vehicular circulation or parking surfaces. No such sign shall be located in conflict with sight distance/sight triangle standards.
10. No such sign shall be permitted within a public road right-of-way.
11. The sign must be removed from the sidewalk or display location during times when the identified business establishment is closed. Storage during non-business hours shall be indoors.
12. When such sign is to be located on a sidewalk or walkway not under the sole control of the business owner, such as on a walkway within the common area of a multi-tenant shopping center or retail complex, the sign owner must be able to provide documentation indicating that the sidewalk owner has approved the use, design and placement of the sign.

**G. Off-premises signs.** The installation of off-premises signs is subject to the following findings and conditions:

1. The function of such signs shall be limited to directional or identification purposes.
2. The location of such signs shall be consistent with the uses existing or permitted on the site of such sign. A written authorization from the owner of the property on which such sign is proposed to be located or a recorded easement permitting the placement of the sign shall be submitted to the zoning administrator at the time of placement.
3. Such signs shall be limited to a maximum area of eight (8) square feet and a maximum height of six (6) feet and shall comply with all other applicable provisions of this article. Not more than three (3) such signs shall be permitted for any single use.

**H. Exempt signs.** The following signs may be erected, altered or maintained in any zoning district when in accordance with the general provisions for signage in the Village, except as noted, and provided further, that permits shall not be required unless specifically noted.

1. Signs erected and maintained pursuant to and in discharge of any federal, state or village governmental function, or as may be required by law, ordinance or governmental regulation including official traffic signs and signals, warning devices and other similar signs.
2. Memorial signs or tablets, cornerstones or names of buildings when cut into masonry or when constructed of bronze or other noncombustible material, but not to exceed six (6) square feet in area.
3. Non-illuminated construction signs, not exceeding thirty-two (32) square feet in area and six feet (6') in height and limited to three signs for each street frontage. No such signs shall be permitted unless a building permit has been issued or unless a site plan for the proposed development has been submitted to the village for official review. Such signs shall be removed at the completion of construction.
4. Bulletin boards for churches or other permanent places of worship, or for public buildings, when located on the same premises as the building to which they refer, and provided that such signs shall not exceed twelve (12) square feet in area and six feet (6') in height.
5. Signs attached to machinery or equipment which is necessary or customary to a business including, but not limited to, devices such as gasoline pumps, vending machines, ice machines, etc., provided that such signs refer exclusively to products or services offered on the premises.
6. On-premises non-illuminated directional signs, not exceeding three (3) square feet in area and three feet (3') in height and not containing any advertising material or discernible business logo. Such signs shall be exempt from the 10-foot minimum setback requirement.
7. Signs displayed in the windows of establishments, however, that such signs shall not occupy more than twenty-five percent (25%) of the total area of the window in which they are displayed.
8. Menu boards which are either free-standing or wall signs providing information on food and beverages offered for drive-in sales on the premises, provided that such signs and any business logos thereon are not legible from any public right-of-way. If the aggregate of or individual area exceeds thirty-two (32) square feet per drive-thru lane, approval is required by the Planning Board.
9. Signs or scoreboards within a ball park or other similar public or private recreational use which are oriented to the facility and are not designed or intended to be legible from a public street or adjacent properties.
10. Flags, emblems or insignia of the United States, the State of New York, Village, religious groups, civic organizations, service clubs and similar organizations, groups, agencies, etc. One (1) corporate logo emblem flag per parcel shall be permitted; provided however, that such sign shall count toward the maximum allowable sign area

for the subject parcel. Flagpoles shall conform with the height regulations of the district in which located. Placement of flags in such quantities and locations as to be for attention-getting/advertising purposes, in the opinion of the zoning administrator, shall not be considered exempt under this section.

11. Non-illuminated signs warning trespassers or announcing property as posted, not to exceed four (4) square feet per sign. Such signs may be located on trees or, with the permission of the owner, utility poles. Such signs shall be exempt from the 10-foot minimum setback requirement.

**I. Special standards for community, business/office/industrial park identification signs.**

Residential community or business, office or industrial park identification signs shall be erected in accordance with the following standards:

1. Such signs must be located within the subdivision, apartment complex or other residential development being identified. The sign shall be located on one (1) of the lots within said development or on property which is owned and controlled in common by the owners of individual lots and units within the development and an affidavit affirming the responsibility for maintenance of the sign shall be filed with the application for a permit.
2. The sign shall be of masonry, wood or other material construction, but not plastic or similar material, so as to be permanent in nature;
3. Any external illumination shall be by lighting fixtures placed at ground level and directed in such a manner as to prevent flare onto adjacent roadways or properties.
4. When the development includes a symmetrical design feature on both sides of the entrance street or driveway such as a decorative wall or fence, identical community identification signs may be mounted on the decorative feature on both sides of the street/drive.

**J. Abandoned signs.** A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. In the event a nonconforming sign refers to a business that has not been in operation for a period of at least two (2) years, such sign shall be considered abandoned and shall be considered to be in violation of this chapter. After reasonable efforts to provide notice to the property owner of the need to remove the violation, and failure of the property owner to do so, the zoning administrator may cause the abandoned sign to be removed at the owner's expense.

**K. Electronic message signs.** Signs on which lights or other illumination devices display only the temperature or time of day in alternating cycles or only motor vehicle fuel prices displayed continuously and change no more frequently than once every 24 hours. All other internally lit signs shall be prohibited.

L. **Prohibited signs.** Unless specifically stated otherwise, the following signs shall not be permitted in the Village:

1. Billboards
2. Signs with moving, revolving or rotating parts, optical illusions of movement, mechanical movement of any description, or other apparent movement achieved by electrical, electronic, mechanical or natural means, but not including time, temperature and date signs, and traditional barber poles.
3. Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color,
4. Signs include displays using incandescent lamps, light emitting diodes (LEDs), liquid-crystal display (LCD) fiber optics, light bulbs, plasma display screens or other illumination devices, or a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals that are used to change the messages, intensity of light or colors displayed by such sign.
5. Moored balloons or other floating signs that are tethered to a structure or the ground.
6. Pennants.
7. Portable signs, except those used as temporary and complying with the regulations for temporary signage. This provision shall not be construed to prohibit signs of reasonable size and proportion as determined by the code enforcement officer, painted on or attached to automobiles, trucks, buses, trailers or other vehicles which are used in the normal course of business. It shall, however, be construed to prohibit the parking of vehicles or trailers on which signs are hung, or otherwise attached, when such parking is for display purposes intended to circumvent the provisions of this chapter. The removal of wheels and chassis assemblies from a portable message board sign with the intent of mounting it on posts shall not be sufficient to cause the sign to be permitted as a freestanding or wall sign.
8. Any sign which by reason of position, shape or color may interfere with, be confused with, or obstruct the view of any traffic sign, signal or device.
9. Advertising signs.

M. **Maintenance and removal of signs.** All signs shall be maintained in good condition and appearance and shall be removed from the premises when they can no longer be repaired.

#### **§ 280.148      ACCESSORY BUILDINGS, STRUCTURES AND USES**

- A. No accessory building shall be located closer to a street than the front building line of the principal structure. A minimum setback of six (6) feet shall be maintained from the side and rear lot lines, unless lot is a pre-existing undersized lot (see 280.37)

- B. **ACCESSORY USES.** In a residential district accessory uses not enclosed in a building, excluding swimming pools, shall be erected only on the same lot as the principal structure, may not be constructed in a front yard of such lot and shall be located not less than twenty (20) feet from any lot line nor less than five (5) feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.
- C. Where twenty five percent (25%) or more of the lots in a block are occupied by buildings, the average yard dimensions, average of lot coverage of such buildings and the average side and rear yard set-back shall determine the yard set-back and coverage requirements for any new accessory building or use, within the block. Or, where no standard block exists, the word block as used above shall be interpreted to mean those residences within two hundred fifty (250) feet of either side of the lot in question, in the same side of the street. The average set-back shall not be based on fewer than two (2) existing residences.
- D. **SPECIAL DESIGNS.** In cases where the developer can demonstrate that his proposal is architecturally unusual, the Village Planning Board may approve, with a special use permit, siting of accessory buildings such as garages and carports in front of the building line of the principal structure. Such accessory buildings shall be in compliance with required front setbacks.
- E. **RESIDENTIAL SWIMMING POOL.** A swimming pool not located within a dwelling unit shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements, to the extent applicable:
1. A private swimming pool shall be located in a rear yard only.
  2. The portion of the premises upon which any swimming pool is located shall be entirely enclosed with a good quality of chain-link wire, wooden or other equivalent fence of not less than four (4) feet nor more than six (6) feet in height.
  3. Every gate or other opening in the fence enclosing any swimming pool shall be kept securely closed and locked at all times when such pool is not in use.
  4. A swimming pool shall not be less than six (6) feet from side and rear lot lines and not less than six (6) feet from any building or structure on the premises.
  5. The water inlet of every swimming pool shall be above the overflow level of said pool. No drains shall be connected with the sanitary sewer system.
  6. Every swimming pool shall be chemically treated in a manner sufficient to maintain the bacteriological standards established by the requirements of the New York State Department of Health.
  7. No permit shall be granted for the installation or construction of any swimming pool unless the plans shall meet the minimum construction requirements of the Building Code as approved by the Enforcement Officer.



8. No loudspeaking or amplifying device shall be permitted that will project sound beyond the bounds of the property or lot where any pool is located.
9. No lighting or spotlighting shall be permitted that will project light rays beyond the bounds of the property or lot where the pool is located.
10. Swimming pools may be installed in residential districts only as accessory structures to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests.
11. Should the owner abandon the pool, they shall arrange to remove the depression and return the surface of the ground to its original grade and approximately in the same condition as before the pool was constructed and they shall further notify the Enforcement Officer of the abandonment so that an inspection of the site may be made and the records of the permit be marked accordingly. For the purpose of this Law, a swimming pool shall be considered abandoned if the owner intends to permanently cease the use of the structure.

**§ 280.149      ON-SITE HOME OCCUPATIONS**

- A. An on-site home occupation may be permitted in any zoning district subject to the approval of a Special Use Permit and site plan review by the Village Planning Board provided such use is not specifically prohibited in the district (see § 280.18 Use Regulations). Such use shall conform to the following standards which shall be minimum requirements:
- B. No more than twenty five percent (25%) of the total floor area of a dwelling unit or 500 square feet whichever is the lesser shall be used for such use.
- C. The use shall be carried on wholly within the enclosed walls of the dwelling unit or accessory building.
- D. There shall be no external evidence of such use except for one sign not exceeding two (2) square feet in area mounted flush with and on the facade of the dwelling unit. Stock merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit or accessory building.
- E. No external structural alterations which are not customary to a residential building shall be allowed.
- F. No more than one profession or occupation, shall be allowed per dwelling unit.
- G. Any form of business whose primary function is the retail sale of goods or articles produced elsewhere than on the premises such as a small grocery store, shall not be deemed a home occupation.
- H. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.

- I. Such uses shall also be subject to any other conditions the Village Planning Board deems necessary to meet the intent of these requirements.

**§ 280.150      GASOLINE FILLING STATIONS, SERVICE AND REPAIR GARAGES, AUTOMOBILE SALES**

In any district where permitted, a gasoline filling station, service and repair garage and automobile sales areas shall conform to the following standards which shall be regarded as minimum requirements:

- A. Lot size shall be at least 15,000 square feet.
- B. Lot frontage and width shall be at least one hundred fifty (150) feet.
- C. Fuel pumps and other service devices shall be located at least thirty-five (35) feet from any front lot line and fifty (50) feet from any side and rear lot lines. This distance shall be measured from the outside edge of the fuel island.
- D. All automobile parts, including tires and dismantled vehicles are to be stored within a building. Old tires that are offered for sale may be placed outside during normal business hours but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind a six (6) foot high fence, wall or natural screen.
- E. All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection shall be stored for a period not to exceed thirty (30) days and must be stored in the rear of the premises, out of sight as much as is possible.
- F. No vehicles shall be parked, stored or left standing within thirty-five (35) feet of the street line.
- G. All storage and display areas shall be provided with a hard, dust-free surface, shall be adequately drained and, if lighted, shall produce no glare on adjacent properties.
- H. Driveways and curb cuts shall be clearly defined, no less than twenty (20) feet and not wider than thirty (30) feet and located so as not to interfere with traffic at any intersection.
- I. All such uses located next to residential areas shall be screened from such areas by landscaping dense enough and high enough to reduce noise and screen out objectionable views.

**§ 280.151      DRIVEWAY STANDARDS**

No person, firm or corporation shall construct or locate any driveway entrance or exit into a street of the Village of Painted Post without having first met the provisions of this section and obtained approval from the Superintendent of Public Works.

- A. The applicant shall furnish all materials and bear all costs of construction within the street right-of-way; pay the cost of all work done and materials furnished as required to meet the conditions set by the Superintendent of Public Works.
- B. No alteration or addition shall be made to any driveway without first securing permission from the Superintendent of Public Works.
- C. No more than two driveways to a single commercial establishment entering on one highway shall be permitted.
- D. The maximum width for a combined entrance and exit shall not be more than 50 feet for commercial use and not more than twenty (20) feet for residential use. The maximum width for a commercial use single entrance or exit shall be not more than thirty (30) feet.
- E. The slope of the driveway shall not be greater than ten percent (10%). Slope of the driveway shall not exceed two (2%) within twenty-five (25) feet of the intersecting public highway.
- F. The driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. The Superintendent of Public Works may require such other measures as he deems necessary to prevent surface water and debris from being discharged onto the street.
- G. Slope and design of driveways shall be consistent with standards outlined in The New York State Stormwater Management Design Manual. Driveways shall slope toward the front yard of a property and not toward the right-of-way.

**§ 280.152      LANDSCAPING, SCREENING AND BUFFER AREA STANDARDS**

- A. **PURPOSE.** The following standards are intended to enhance the appearance and natural beauty of the village and to protect property values through preservation of existing vegetation and planting of new screening and landscaping material. Specifically, these standards are intended to reduce excessive heat, glare and accumulation of dust, to provide shade and privacy from noise and visual intrusion and to prevent the erosion of the soil, excessive runoff of storm water, and the depletion of the groundwater table and the pollution of water bodies, watercourses, wetlands and aquifers. The Village Code Enforcement Officer (CEO), or Planning Board will review applications to ensure consistency with the following regulations.
- B. **DEFINITIONS.** Unless specifically defined below, words or phrases used in the landscaping regulations shall be interpreted so as to give them the meaning they have in other parts of the Zoning Regulations, or where not otherwise defined, the meaning they have in common usage.

**CANOPY TREE:** A deciduous shade tree planted at least two and one-half inches (2½”) in caliper measured at three feet (3’) off the ground with a mature height of at least thirty-five feet (35’).

**UNDERSTORY TREE:** A deciduous shade tree or fruit tree planted at least two inches (2") in caliper measured at three feet (3') off the ground with a mature height of twelve feet (12').

**EVERGREEN TREE:** A coniferous species tree planted at least six feet (6') in height at the time of planting.

**SHRUB:** A plant of either deciduous species planted at two and one-half feet (2 ½') in height with a mature height of at least six feet (6') or a coniferous species planted at two and one-half feet (2 ½') in spread. Shrubs must be at least five (5) gallons in size at the time of planting.

**LAWN:** An area planted and maintained in perennial grass.

**GROUND COVER:** Plant materials generally not in excess of ten inches (10") high and used for decorative purposes or for their soil stabilization characteristics.

**BERM:** A raised, sloped landscape device made of earthen material designed to provide visual separation between areas and which may contain planted materials and such natural landscape architectural features as boulders, sculptures, timbers or stone walls all arranged to the satisfaction of the Board.

### **C. GENERAL REQUIREMENTS**

1. Landscaping, trees, and shrubs required by these regulations shall be maintained in a healthy growing condition. Any landscaping, trees and shrubs which shall be shown on an approved site plan and which shall be in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season for the particular plant material.
2. All landscaping, trees, shrubs and other planting material adjacent to parking areas, loading areas or driveways shall be properly protected to prevent damage from vehicles.
3. To the extent possible, existing trees shall be saved. Unique site features such as stone walls shall also be retained.
4. All portions of non-residential properties which shall not be proposed as locations for buildings, structures, off street parking and loading areas, sidewalks or similar improvements, and are not portions of buffer areas to remain in a natural state, shall be landscaped and permanently maintained in such a manner as to minimize storm water runoff.
5. No trees eight inches (8") or greater in caliper measured three feet (3') above ground shall not be removed unless so approved by the Code Enforcement Officer.

6. No widespread and invasive, restricted and invasive, or potentially invasive plants as outlined in the publication shall be used in any planting plan.
7. The Planning Board or Code Enforcement Officer reserves the right to require alternate species of plantings, if the site conditions are not suitable for the species proposed by the applicant. Native species are encouraged.
8. The total area of the site landscaping plus those areas left in a natural state must equal at least 30% of the total parcel area. This requirement shall not apply to parcels in the Village Center District.
9. Trees planted under or adjacent to utility lines should be carefully selected and placed so that their mature height does not interfere with the lines.

#### **D. PARKING LOT LANDSCAPING REQUIREMENTS.**

1. **Front Landscape Areas.** The purpose of a front landscape area is to enhance the appearance of the subject property and the street in the Business (B), Industrial (I), and Medium Density Residential (MDR) zones. Front landscape areas, where required by these regulations, shall extend across the full width of the lot along the interior side of the front lot line except where driveway entrances and exits are located. The depth of the front landscape area shall be the depth of the required front setback, with the exception that in the Industrial (I) and Industrial 2 (I-2) Zones the depth of the front landscape area shall be at least 50 feet. No structures, including but not limited to septic systems, stormwater detention basins, stormwater retention basins, water quality basins or infiltration systems may be located in any required front landscape areas. Every required front and street side landscape area shall be planted in lawn and/or ground cover and shall also contain at least one (1) deciduous canopy shade tree at least two and one-half inches (2 ½") in caliper for each fifty feet (50') or part thereof of street frontage. For each canopy shade tree so planted, one (1) understory deciduous shade tree at least two inches (2") in caliper, one (1) evergreen tree at least six feet (6') in height, and six (6) shrubs shall also be required. A designed landscape berm of a height and configuration approved by the Planning Board shall be located within this front landscape area as a visual and traffic safety barrier.
2. **Landscape Islands.** Any lot which contains parking facilities for more than fifteen (15) motor vehicles shall also provide landscaped areas within the parking lot equal to at least twenty-five percent (25%) of the gross parking lot area. Depressed landscape islands to allow infiltration of parking lot stormwater runoff are encouraged. The landscaped islands shall conform to the following:
  - A. **Landscaped End Islands** shall be a minimum of 10' x 20' containing one (1) canopy tree and two (2) shrubs.
  - B. **Landscaped Center Islands** shall be a minimum of 15' x 20', containing a minimum of one (1) canopy tree and other trees and shrubs, as appropriate. Larger

islands are encouraged to create a more suitable growing environment for trees, and for enjoyment of the public.

- C. In addition to the canopy trees, these islands shall be planted in a mixture of lawn, ground cover and low-lying shrubs.
- E. **STORMWATER MANAGEMENT.** A stormwater management plan shall be that encourages infiltration and incorporates the landscaping islands and vegetated areas in storm water management.
- F. **BUFFERS.** The purpose of a buffer area is to provide privacy from noise, headlight glare, and visual intrusion onto any lots currently used for single family and multiple-family residential uses located in a Single Family or Multiple-Family Residential Zone. A buffer area shall be provided by the owner/developer of any property located in all zones where any parcel in the zone is used for a use other than a single-family residence and abuts a residentially zoned parcel containing a single-family dwelling or a multi-family dwelling. Such buffer shall be implemented and located along the interior perimeter of a parcel utilized for non-residential uses where the property line adjoins a parcel zoned and utilized for residential purposes. A multi-family residence located within a Medium Density Residential (MDR) shall be required to provide said buffer when abutting a parcel which is used for residential purposes and is located in a Low Density Residential (LDR) zone.

In addition, any use which requires parking for more than 8 motor vehicles, and which parcel is located in a single-family residential zone with abutting residential uses shall be required to provide the buffer described above.

- 1. The minimum depth of buffer areas shall be as follows:
  - A. Uses in all Residential zones which will require parking for more than 15 motor vehicles: 60 feet. Properties 5 acres or less in the Business zone may reduce the buffer to 40 feet if the number of evergreens required below in subsection (2) is doubled for each required “plant unit”.
  - B. Business: 60 feet. Properties 5 acres or less in the Business zone may reduce the buffer to 40 feet if the number of evergreens required below in subsection (2) is doubled for each required “plant unit”.
  - C. Industrial Zones (I, I-2): 60 feet
  - D. When an industrially zoned (I, I-2) or business zoned (B) parcel in excess of 5 acres abuts a residential zone where single-family or multiple-family dwellings are currently located less than 150’ to the adjoining property line, the required minimum buffer depth shall be 100’ and the required number of plantings shall be proportionately adjusted.

2. The buffer area shall be left in a natural condition or planted in lawn and/or ground cover and contain one (1) plant unit for each one hundred feet (100') of buffer length, or a portion thereof. For the purposes of this paragraph, "one plant unit" consists of:
  - A. Four (4) canopy trees
  - B. Six (6) understory trees
  - C. Twenty-four (24) shrubs
  - D. Twelve (12) evergreens
  - E. A berm
3. At the Planning Board or Code Enforcement Officer's discretion, where the existing topography and/or landscaping provide natural screening, which satisfies the purpose of this regulation, no additional screening will be required.
4. No structures, including but not limited to septic systems, stormwater detention basins, stormwater retention basins, water quality basins or infiltration systems may be located in any required buffer areas. Fencing or walls in the required buffer area may be required if erection of such would assist in achieving the purpose of the buffer area.

**G. MODIFICATION OF STANDARDS.** The Planning Board or Code Enforcement Officer, in connection with the approval of a site plan under these regulations, may authorize modification of landscape requirements as follows:

1. Additional Landscaping: Planning Board or Code Enforcement Officer may require additional landscaping or more mature plantings if unusual conditions dictate more extensive screening.
2. Reduced Landscaping: Planning Board or Code Enforcement Officer may reduce the landscaping requirements by not more than twenty five percent (25%) or elimination of a required berm, for excellence in building or space design. Planning Board or Code Enforcement Officer shall consider, among other features, the site characteristics, the compatibility of the proposed structure with surrounding architectural types, conservation of existing trees and site features, quality of building materials, and size and quality of landscape materials.
3. The Zoning Board of Appeals reserves the right to modify any landscaping specification outside the authority of the Planning Board or Code Enforcement Officer, in harmony with their general intent, in unique and unusual circumstances indicated by individual site conditions, technical complexities or by overriding considerations of safety and general welfare through a variance applied for by the applicant.

## **§ 280.153     STEEP SLOPE GUIDELINES**

The Village of Painted Post contains steep slope (15% or greater) areas. Special design treatment for streets, building sites and other development may be required to preserve the natural terrain, trees, rock formation, scenic views, etc. All development on steep slopes shall be subject to the following guidelines:

- A. Tier 1 slopes (10-15%) may only be developed for low density residential, recreation, forestry, agriculture, storage, and other uses as approved by the Planning Board.
- B. Tier 2 slopes (greater than 15%) may only be developed for open space, some recreation, and other low impact activities as approved by the Planning Board.
- C. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) And road location (including cross-sections).
- D. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
- E. Design principles shall include, but not be limited to, the following:
  - 1. Landscaping of areas around structures making them compatible with the natural terrain.
  - 2. Shaping, grouping and placement of man-made structures to complement the natural landscape.
  - 3. Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer shall first determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them.
  - 4. Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
  - 5. Encourage the use of turning circles at mid-block points and the development of off-street parking bays to avoid the use of private driveways for turning and parking movement.
  - 6. Encourage split-level building sites.
  - 7. Use one-way streets when consistent with traffic, safety, circulation needs, and natural topography. This guideline allows for narrower road right-of-way, less cut and fill



within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.

8. Land within the hill area that is in excess of twenty-five percent (25%) slope shall not be developed as individual residential lots.
9. Outstanding natural features such as the highest crest of the hill range, natural rock outcroppings, particularly desirable vegetation, etc. shall be retained.

#### **§ 280.154     DRAINAGE SYSTEM AND EROSION CONTROL**

- A. **DRAINAGE SYSTEMS.** Adequate and comprehensive drainage systems shall be provided to convey the storm water runoff originating within and outside the development in accordance with the natural direction of runoff for the total upland watershed affecting the area. Such drainage systems shall be designed to effectively control the rate of surface runoff generated within the proposed development. Such drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of development. In general, the preservation of natural watercourses is preferable to the construction of drainage channels. All structures shall have a minimum setback of fifty (50) feet from the streambank.

Stormwater management shall be consistent with the standards specified in “Stormwater Management Guidelines for New Development”, Appendix D of New York State Department of Environmental Conservation SPDES General Permit for Storm Water Discharges from Construction Activities.”

When a land development project is within or adjacent to any area with known flooding problems or known high ground water, the elevations of buildings shall be above the observed, anticipated or computed water levels. The effect of such development on upstream and downstream reaches of the watercourse and adjacent properties shall be considered and adequate protective measures shall be implemented.

Utilizing the drainage guidelines outlined above, the Village Planning Board may require the developer to submit the following:

1. Plan, profiles, and typical and special cross-sections of proposed storm water drainage facilities.
2. Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.
3. The grading plan shall be developed to suitable contour interval with grading details to indicate proposed street grades and elevations and building site grades and elevations.

4. If the development is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the drainage report.
5. Design criteria as specified in the “NYSDEC Stormwater Management Guidelines for New Development.”

Any construction activity shall be in compliance with State Pollutant Discharge Elimination System (“SPDES”) permit requirements for Stormwater Discharges from Construction Activities.

Any activity within fifty (50) feet of a protected stream, including the installation of storm water conveyance systems, will require a New York State Article 15. Protection of Water Permit.

Any development that is located within one hundred (100) feet of a protected wetland, as delineated on the New York State Freshwater Wetlands Map, shall be in compliance with all New York State regulations and permit requirements.

Any development that results in the loss of one-third (1/3) acre or more of waters or wetlands (including areas of hydric soils as indicated on the Soil Survey of Steuben County) shall be in compliance with all U.S. Army Corps of Engineers regulations and permit requirements.

- B. **EROSION AND SEDIMENT CONTROL.** In order to ensure that the land will be developed with a minimum amount of soil erosion, the Village Planning Board shall require the developer to follow certain erosion control practices. The Village Planning Board and the developer shall consult with the Steuben County Soil and Water Conservation District, as required, and the Soil and Water Conservation District shall determine whether or not the required procedures are being put into practice. Such procedures shall be consistent with the standards specified in “Erosion and Sediment Control Guidelines, Appendix E of New York State Department of Environmental Conservation (SPDES General Permit for Stormwater Discharges from Construction Activities.”

#### **§ 280.155      OPEN SPACE, PARKS AND PLAYGROUNDS**

The Village Planning Board may, as a condition of site plan approval, require that specific areas be designated for recreational purposes. Such designation shall depend upon the magnitude and character of the project, and accessibility to existing recreational areas. All lands proposed for parks or recreation purposes shall meet the following minimum standards:

- A. Such land shall either be deeded to the Village or be held in corporate ownership and maintained by an established organization.
- B. Shall have physical characteristics and locations which render them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to

minimizing hazards from vehicular traffic for children walking between such facilities and their homes in the neighborhood.

- C. No such area may be smaller than two (2) acres, and in general, recreation areas shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.
- D. A detailed development plan shall be provided for each neighborhood park or playground. As a minimum, the development plan shall provide for an approximately level area at least one hundred seventy-five (175) feet square for children's field games.
- E. The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

**F. GENERAL REQUIREMENTS.**

- 1. Open space shall be protected by legal arrangements which are adequate to assure the preservation and continued maintenance of the open space for its intended purposes in perpetuity. Covenants or other legal arrangements shall specify ownership of the open space. The legal arrangements shall also include any other matters deemed necessary to carry out the purposes of the development.
- 2. No more than 5% of any open space shall consist of impervious surfaces.
- 3. Designation of Open Space. To qualify as part of the required open space, land shall be capable of meeting the criteria of one or several of the following categories and shall be labeled as such on the preliminary plat. Land that is designated as open space within any of these categories may be retained as part of an undivided open space parcel, or may be subdivided as individual open space parcels, provided that each parcel is capable of meeting one or several of the criteria listed below and is at least 2 acres in size. In no case may designated open space, whether held as a single parcel or subdivided into several parcels, be eligible for future development.
  - A. Conservation open space - wetlands, floodplains, steep slopes, streams and their buffers. Note: Stream buffer width shall be 75 feet from each bank.
  - B. Community Recreation open space - recreational open space as developed primarily in the Conservation Land Area.
  - C. Public Access Open Space - Land that is to be deeded to a government agency or non-profit land trust which agrees to provide public access to any dedicated open space it owns or manages for the purpose of providing space for parks, playgrounds, green spaces or other recreational purposes and/or for the protection of sensitive areas.

#### 4. Preservation of Open Space.

- A. Conservation Easements for the Retention of Open Space. Concurrent with the recording of a subdivision, a conservation easement on any land designated as public or private open space under the provisions of this Section shall be deeded to the County
- B. or, County-approved designee to further ensure that the designated open space will remain undeveloped in perpetuity.
- C. The conservation easement shall be solely for the purpose of ensuring that the land remains undeveloped and shall not, in any way, imply the right of access onto the property or any other right or obligation not expressly defined under the terms of the easement.
- D. Deed Covenants and Owner's Certificate Covenants in the deeds of all property owners (including owners of lots and owners of open space) and an owner's certificate on the recorded plat shall state that the open space shall not be used as building sites for residential, commercial, or industrial development.

#### 5. Ownership of Open Space

- A. The owner of record at the time of subdivision shall have the option of retaining title or conveying, at his/her discretion, any and all parcels of open space created through the subdivision process.
- B. Any parcel of open space which is not retained by the owner of record at time of subdivision or acquired by the County for the purpose of providing trails, parks, playgrounds, green spaces or other recreational amenities may be sold or otherwise conveyed to an individual, organization or governmental entity.
- C. Any individual, organization or governmental entity which holds title to any parcel of open space may elect to grant community or public access to that parcel or may elect to convert that parcel into any one of the various categories of open space for which it qualifies.
- D. Any portion or portions of the open space held by a Homeowners' Association shall be governed by covenants addressing the method of maintenance, maintenance fee and insurance arrangements, mandatory membership and assessment requirements, sales disclosure (public offering statement), improvement of common property, timing of conveyance of common property, timing of governance transition to the Homeowners, and maximum assessments.

### **§ 280.156     UTILITIES**

- A. **WATER SUPPLY AND SEWAGE DISPOSAL.** Provisions for water supply and sewage disposal shall comply with requirements of the Village of Painted Post, N.Y.S. Health Department and/or N.Y.S. Department of Environmental Conservation.

- B. **UNDERGROUND INSTALLATION.** All utility companies (telephone, electric, etc.) Are now equipped to make underground installation of their services; underground installation shall be required when practical.

§ 280.157     **NOISE CONTROL REGULATIONS**

A. **DEFINITIONS.**

1. **Commercial Operation.** Any facility or property used for the purchase or utilization of goods, services, or land or its facilities including, but not limited to:
  - A. Commercial Dining Establishments
  - B. Non-commercial Vehicle Operations
  - C. Retail Services
  - D. Wholesale Services
  - E. Banks and Office buildings
  - F. Recreation and Entertainment
  - G. Community Services
  - H. Public Services
  - I. Other Commercial Services
2. **Commercial Motor Vehicle Operations.** Any facility or property used primarily for the dispatching, garaging, servicing, maintaining, selling, or leasing of any truck registered at a gross weight in excess of 6,000 pounds, omnibus, tractor, trailer, semi-trailer, pole trailer, or any vehicle registered in this State engaged in interstate commerce which is now or hereafter subject to regulation and license by the Interstate Commerce Commission and/or the Bureau of Motor Carrier Safety of the Federal Highway Administration.
3. **Continuous Airborne Sound.** Sound that is measured by slow response setting of a sound level meter.
4. **Decibel.** A unit for measuring the volume of a sound, equal to twenty (20) times the logarithm of the ratio of the sound pressure of the sound, to the sound pressure of a standard sound (.0002 microbars): abbreviated “dB.”
5. **dba.** The measured sound level expressed in dB when using the “A” weighted network of a sound level meter.

6. **Emergency Energy Release Device.** Emergency safety devices expressly used to release excess energy which do not have regularly scheduled operation. Process control devices are not to be considered emergency devices.
7. **Frequency.** The number of oscillations per second; expressed in hertz (abbreviation Hz.).
8. **Impulsive Sound.** Either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second.
9. **Impulsive Sound Level.** The maximum instantaneous sound pressure level measured by an impulse sound level meter meeting IEC - Publication 179 or the latest revision thereof.
10. **Industrial Operation.** Any facility or property used for the following:
  - A. Storage, warehouse or distribution, provided that said operation shall not be construed to be an industrial operation when it is part of a commercial motor vehicle operation as defined herein.
  - B. Property used for the production and fabrication of durable and nondurable man-made goods.
  - C. Activities carried out on the property.
11. **IEC.** International Electrotechnic Commission.
12. **Octave Band Sound Pressure Level.** Sound pressure level measured in standard octave bands with sound level meter and octave band analyzer that meet ANSI S 1.4 & S1.11 or the latest revision thereof.
13. **Person.** Any individual, public or private corporation, political subdivision, governmental agency, department or bureau of the State, municipality, industry, co-partnership, and association.
14. **Residential Property.** Property containing one or more dwelling units.
  - A. Commercial Living Accommodations, commercial property used for human habitation.
  - B. Recreational and entertainment property used for human habitation.
  - C. Community service property used for human habitation.
15. **Sound Level.** The measured level of a sound, expressed in dB re 0.0002 microbars, obtained using a sound level meter. Sound levels include all factors inherent in measuring with a sound level meter including microphone frequency response, amplifier characteristics, meter damping, observer effects and weighing networks.

16. **Sound Pressure Level.** The sound pressure level, in decibels, of a sound is twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound pressure. Sound pressure level is measured with a sound level meter meeting ANSI - S 1.4 or the latest revision thereof.

17. **Stationary Emergency Signaling Device.** Any device, excluding those attached to motor vehicles, used to alert persons engaged in emergency operations. These include, but are not limited to fire fighters, first aid squad members and law enforcement officers, whether paid or volunteer.

## **B. NOISE CONTROL LIMITATIONS.**

1. **Residential Standards.** Upon effective date of this Law, no person shall cause, suffer, allow or permit sound from any operation which when measured at any residential property line is in excess of any of the following:

A. Daytime Standards: from 7:00 a.m. to 10:00 p.m.

Continuous airborne sound which has sound level in excess of 65 dBA

B. Nighttime Standards: from 10:00 p.m. to 7:00 a.m.

Continuous airborne sound which has a sound level in excess of 55 dBA

2. **Commercial and Industrial Standards.** No person shall cause, suffer, allow or permit sound from any operation, which when measured at the property line of any industrial or commercial operation is in excess of any of the following:

Continuous airborne sound which has a sound level in excess of 65 dBA

## **4. Stationary Emergency Signaling Devices.**

A. Upon the effective date of this Law:

1. Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day that a test is performed, but not before 8:00 a.m. Any such testing shall only use the minimum cycle test time.

B. Stationary emergency signaling devices shall be used only for testing in compliance with applicable provisions of these regulations and for emergency purposes where personnel and equipment are mobilized.

5. **Exceptions.** The operational performance standards established in this section shall not apply to any of the following noise sources:

A. Agriculture.

B. Bells, chimes or carillons while being used in conjunction with religious services.

- C. Commercial motor vehicle operations.
  - D. Emergency energy release devices.
  - E. Emergency work to provide electricity, water, or other public utilities when public health or safety are involved.
  - F. National Warning System (NAWAS) - Systems used to warn the community of attack or imminent public danger such as flooding or explosion. These systems are controlled by the N.Y. Civil Defense and Disaster Control Agency.
  - G. Public celebrations.
  - H. Public roadways.
  - I. Surface carriers engaged in commerce by railroad.
  - J. The unamplified human voice.
  - K. Use of explosive devices - These are regulated by the N.Y. Department of Labor and Industry under the 1960 Explosive Act (R.S. 21:1A-1-27).
6. **Performance Test Principle.** For the purposes of measuring sound in accordance with the applicable provisions of these regulations, test equipment methods and procedures shall conform to standards as published by the IEC or its approved equivalent.

**§ 280.158      SOLAR ENERGY SYSTEMS AND SOLAR ACCESS**

All new development totaling four (4) or more acres shall be designed so that the maximum number of buildings can receive direct sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. New buildings and vegetation shall be sited with respect to each other and the topography of the site so that unobstructed direct sunlight reaches the south wall or rooftop of the greatest possible number of buildings according to the following standards:

- A. Solar access shall, to the greatest extent possible, be protected between the solar azimuths of -45 degrees (west of due south).
- B. Purposes of solar access, streets, lots and buildings setbacks shall be designed so that the buildings are oriented with their long axes running from east to west for single-family development and north to south for townhouse and multi-family development.
- C. In order to maximize solar access, the highest densities shall to the maximum extent possible be placed on the south-facing slopes with lower densities sited on north-facing slopes.
- D. Streets shall be oriented on an east-west axis to the greatest extent possible.



- E. Buildings shall to the greatest extent possible be sited as close to the north lot line or lines to increase yard space to the south for better owner control of shading.
- F. Tall buildings shall to the greatest extent possible be sited to the north of shorter ones and be buffered from adjacent development.
- G. Existing vegetation shall be retained and incorporated into design as practicable.
- H. A description of any mechanisms, such as deed restrictions, covenants, etc., that are to be applied shall be provided.
- I. Solar energy systems are permitted in all zoning districts as an accessory use to permitted, conditional, and special uses.
- J. All solar energy systems, with the exception of those detailed in Section 280.158M shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located.
- K. The installation and construction of a *roof-mount* solar energy system shall be subject to the following development and design standards:
  - 1. A roof or building mounted solar energy system may be mounted on a principal or accessory building.
  - 2. Any height limitations of the Village of Painted Post Zoning Law shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
  - 3. Placement of solar collectors on flat roofs shall be allowed by right provided that panels do not extend horizontally past the roofline.
- L. The installation and construction of a *ground-mount* or *pole-mount* solar energy system shall only be permitted in the Industrial and West Water Street Development Districts and are subject to the following development and design standards:
  - 1. The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.
  - 2. The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
  - 3. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

4. All power transmission lines from a ground mounted solar energy system to any building or other structure may be located underground and/or in accordance with the building electrical code, as appropriate.
- M. A special use permit is required for all other *ground- or pole-mounted* solar energy systems. Applications for the installation of all systems with a system capacity greater than 25 kW AC are subject to the following site plan requirements:
1. Applications shall be reviewed by Code Enforcement Officer for completeness. Applicants shall be advised within 10 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
  2. Applications are subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town and post on the Town website at least 5 business days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 2500 linear feet of the property at least 10 business days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
  3. Applications shall be referred to the Steuben County Planning Department pursuant to General Municipal Law § 239-m if required.
  4. Upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.
  5. Any site plan application shall include the following information:
    - A. Property lines and physical features, including roads, for the project site
    - B. Setbacks. Installations greater than 25kW AC must be set back 50' from any public roadway.
    - C. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
    - D. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
    - E. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

- F. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- G. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- H. Zoning district designation for the parcel(s) of land comprising the project site.
- I. Screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. The Planning Board may waive this requirement if existing vegetation exists.
- J. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- K. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- L. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

**§ 280.159      STORAGE OF VEHICLES, CAMPERS, TRAILERS AND BOATS**

- A. All travel trailer, campers, boats, or similar recreational vehicles shall not be stored for more than thirty (30) days per calendar on a residential lot outside of buildings thereon except to the rear of the principal dwelling and within the side and rear setbacks applicable to said lot.
- B. No such vehicle shall be parked or stored on a vacant lot unless granted a special use permit to do so.

**§ 280.160      AMUSEMENT ARCADE OR GAME ROOM**

- A. A continuous commercial use may operate up to two (2) amusement game machines.

B. The operation of three or more amusement game machines by any commercial use shall constitute an amusement game center. Such center shall be subject to the following standards:

1. One and one-half (1 ½) parking spaces per game shall be required in addition to the parking standards set forth in § 280.144B.
2. In the case that the amusement game center is the principal commercial use, the hours of operation shall fall within the hours of 9:30 a.m. to 9:30 p.m.
3. In no case shall the operation of an amusement game center result in vehicular or bicycle traffic, or other activities that will create a nuisance or be detrimental to adjacent businesses.

#### **§ 280.161      FINISHED GRADE REGULATION**

The difference of any two finished grade elevations around the periphery of the building shall not exceed one-half the floor to ceiling height.

#### **§ 280.162      SATELLITE TV ANTENNAS**

No satellite television antenna of any kind may be erected or established in the Village except in conformance with the standards in this section.

##### **A. SATELLITE ANTENNA SIZE.**

1. In residential and business zones, satellite antennas shall not exceed twelve (12) feet in diameter.
2. In all other zones, antennas shall not exceed fifteen (15) feet in diameter.
3. In residential and business zones, the total height of ground-mounted antennas shall not exceed fifteen (15) feet above the ground.
4. In all other zones, the total height of ground-mounted antennas shall not exceed twenty (20) feet in height above the ground.
5. In all districts, roof-mounted installations shall not exceed the height restrictions as set for the zoning district within which the installation is placed.

##### **B. SATELLITE ANTENNA LOCATION.**

1. In any industrial zone, such antenna may be located anywhere on the lot or building thereon.
2. In a residential or commercial zone, subject to the provisions contained herein, such antenna shall be located only in the rear yard of any lot provided that such antenna is located at least five (5) feet from any principal building and lot line. If a usable satellite

signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property subject to the approval of a special use permit. For purposes of this Law a usable satellite signal is a satellite signal which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

3. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure, provided that a special use permit is obtained prior to such installation. Such permit shall be issued upon a showing by the applicant that a usable satellite signal is not obtainable from any other location on the property, and provided further, that the construction and erection otherwise is in compliance with the applicable building code and electrical code.

#### **C. GENERAL PROVISIONS.**

1. Except in an industrial zone, satellite television antennas shall be located and designed to reduce visual impacts from surrounding properties at street level and from public streets.
2. Not more than one satellite television antenna shall be allowed in any residential zone on any lot less than one-half (½) acre in size.
3. All antennas and the construction and installation thereof shall conform to applicable building and electrical code regulations and requirements.
4. Antennas shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.
5. Every antenna must be adequately grounded for protection against a direct strike by lightning.

#### **§ 280.163      COMMUNICATIONS TOWERS**

No communications tower shall hereafter be used, erected, moved, or modified except after the granting of a Special Use Permit by the Village Planning Board in conformity with the provisions of this section. No existing structure shall be modified to serve as a communications tower unless in conformity with this section.

In reviewing an application for a special permit for a communications tower, the Planning Board shall, at a minimum, require that the following criteria be met:

##### **A. SITE LOCATION.**

1. Documentation of the need for the use of the site proposed. Higher intensity/density sites are preferred in the following order:
  - A. Property with an existing structure suitable for co-location.

B. Industrial Districts.

C. Rural Districts

2. A completed Visual Environmental Assessment Form (visual EAF), including simulated photographic visualization of the site, with attention to visibility from key viewpoints.

B. **HEIGHT.** Documentation of the minimum height necessary for the applicant's needs.

C. **CO-LOCATION AND USE OF PREEXISTING STRUCTURES.**

1. Applicants are encouraged to provide their towers for use by other carriers, to co-locate on existing towers or locate antenna on existing structures. An application must include an inventory of existing towers within a reasonable distance of the proposed site with documentation of intent from an existing tower owner to allow co-location.
2. Inventory of pre-existing structures as alternatives to new construction.
3. If 1 or 2 above are not feasible, communications tower design to accommodate future demand for additional facilities. This requirement may be waived by the Planning Board, provided that the applicant demonstrates that future shared usage is not feasible based upon:
  - A. The number of Federal Communications Commission (FCC) licenses anticipated for the area.
  - B. The number of existing and potential licenses without tower spaces/sites.
  - C. Available spaces on existing and approved towers.
  - D. Potential adverse visual impact by a tower designed for co-location.

D. **SETBACKS.**

1. Communication towers, guy wire anchors and any accessory structures shall be erected no nearer to a lot line than the greater of:
  - A. The required setback as specified in the Density Control Schedule, or
  - B. The tower height plus the tallest antenna.

E. **VISIBILITY AND AESTHETICS.**

1. Monopoles or guyed towers shall be preferred to freestanding communication towers.

2. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree lines, unless other standards are required by the FAA. Towers shall be designed and sited to avoid the application of FAA lighting and painting requirements.
3. Accessory facilities shall maximize use of location, building materials, colors and textures designed to blend with natural surroundings.
4. No communications tower, antenna or accessory facility shall contain any signs or advertising devices.

F. **EXISTING VEGETATION.** Existing on-site vegetation shall be preserved to the maximum extent possible.

G. **FENCING AND SCREENING.**

1. Screening of communication towers shall comply with standards set forth in **§ 280.151**.
2. All communications towers and accessory facilities shall be enclosed by a fence not less than six (6) feet in height or otherwise sufficiently protected from trespassing and vandalism. Any guy supports shall be sleeved, visibly marked or entirely fenced in to a height of eight (8) feet above the finished grade to protect against accidental impact by persons or animals.

H. **ACCESS.** Access is required to assure adequate emergency and service access. Construction of pervious roadways (crushed stone, gravel, etc.) are preferred.

I. **RADIO FREQUENCY EFFECTS.** Communications antennas shall be operated only at FCC frequencies and power levels unless otherwise justified.

J. **APPLICANT BUILD-OUT PLAN**

1. A build-out plan will include:
2. A map of the applicant's current facilities in the Village.
3. Potential locations for additional facilities within the next twenty-four (24) months.
4. A description of the proposed facility's impact on existing communication towers in the Village.
5. A map of discontinued or relocated facilities.
6. A build-out plan and certification of use of existing facilities shall be submitted by January 31 of each year, including any further application for additional facilities.

## **K. REMOVAL OF FACILITIES.**

1. Upon abandonment the applicant shall remove any and all communication structures immediately upon the discontinuance of the permitted use, shall reasonably restore the site and shall incur all expenses related to the abandonment.
2. The applicant shall post a bond or other surety to be renewed annually with the Village of Painted Post to ensure #1 above.

## **L. EXCEPTIONS.** The provisions of this section shall not apply to the following:

1. Individual, scientific, medical, weather, navigational, military, or government radar antennas and associated communication towers.
2. Pre-existing towers including repair and maintenance of existing communication towers and antennas.
3. Antennas used solely for the residential household television and radio reception.

## **§ 280.164     ADULT USES**

### **A. INTENT.**

It is the purpose of this law to regulate the creation, opening, commencement and/or operation of Adult Use and Entertainment Establishments, as herein defined, in order to achieve the following:

1. To preserve the character and the quality of life in the Village of Painted Post's neighborhood and business areas.
2. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.
3. To restrict minors' access to adult uses.
4. To maintain the general welfare and safety for the Village of Painted Post's residents and the general public.

### **B. ALLOWED ZONING DISTRICTS.**

All Adult Use and Entertainment Establishments as defined herein shall only be created, opened, commenced or operated upon the approval of a Special Use Permit within the Business districts as identified by the Zoning Law of the Village of Painted Post.



### **C. LOCATION WITHIN ALLOWED ZONING DISTRICTS.**

An Adult Use and Entertainment Establishment shall be permitted only in the allowed zoning district as defined by the Use Regulation Table, and, within such a district, shall not be allowed:

1. Within five hundred (500) feet of the boundary of any residential zoning district in the Village of Painted Post;
2. Within five hundred (500) feet of the property line of a parcel used for residential purposes in the Village of Painted Post;
3. Within one thousand (1000) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park, or playground, within the Village of Painted Post;
4. On the same parcel as another Adult Use and Entertainment Establishment;
5. Within one thousand (1,000) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such other establishment is located in the Village of Painted Post; or
6. Within one thousand (1,000) feet of the property line of an establishment with a liquor license.
7. The above distances of separation shall be measured in a straight line from the nearest exterior wall of the portion of the structure containing the Adult Use and Entertainment Establishment.

### **D. DISPLAY PROHIBITED.**

All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity” or the advertisement of said anatomical areas and or acts.

### **E. SIGNS.**

The sign section of the Village of Painted Post’s Zoning Law will apply.

### **A. BUILDING MATERIAL AND COLOR RESTRICTIONS.**

1. Building materials are to be consistent with the surrounding architecture and colors are to be muted and in harmony with the surrounding architecture and landscape.

2. Noise impacts shall be strictly limited through building construction or physical location or by the installation of walls or other sound barriers.

## **§ 280.165      DISTRICT HEATING & COOLING SYSTEMS**

The Planning Board may encourage the implementation of district heating and cooling systems as a method for producing renewable energy. Such systems shall be permitted in the Village Center District (VC) and West Water Street Development District (I-2) and shall be evaluated during Site Plan Approval or when granting a Special Use Permit. District heating and cooling systems can either function as cooperative efforts for a system of buildings or by selling shares to other local constituents.

## **§ 280.166      HAZARDOUS MATERIALS AND USES**

- A. **PURPOSE.** The majority of Village of Painted Post residents depend on public wells which draw water from the unconsolidated sand and gravel aquifer underlying the Canisteo, Conhocton and Tioga River valleys. This aquifer is replenished in part by rainfall within the watershed and in part by the rivers. The Village of Painted Post, with its residential, commercial, industrial and other uses, overlies the recharge area for its public water supply. Contamination can be contributed to the ground water by improper handling and disposal of hazardous substances, petroleum products and other sources and by accidental spills along the nearby roads and railroads which can lead to public and private losses and costs, business interruptions, damage to facilities and utilities.

The purpose of this law is to protect the public health, safety, and welfare of the people of the Village of Painted Post by minimizing continued and future water supply contamination without applying burdensome regulations on land use. This purpose will be accomplished by regulating certain uses that have been determined to be potentially damaging to groundwater quality, and by establishing minimum documentation and submittal requirements to ensure that other uses will not adversely affect the groundwater and quantity.

### **B. GENERAL REGULATIONS**

1. **Permitted Uses.** Any use permitted in a given district shall be permitted subject to all the provisions of this Section. In any cases where conflicts arise between these supplemental requirements and any other existing requirement, the more restrictive shall apply.
2. **Discharge of hazardous substances.** The discharge or disposal of any hazardous substance, petroleum, or radioactive material is prohibited, except as allowed by a valid permit per regulations promulgated under the NYS Environmental conservation Law Articles, 1,3,8,15,17,19,23,27,52, and 70 and the NYS Public Health Law Section 225 and amendments thereto. This includes:
  - A. **SEPTIC SYSTEM CLEANERS:** The use of septic system cleaners which contain toxic substance or hazardous materials.

- B. **DISCHARGE TO SEPTIC TANKS:** The disposal of toxic substances or hazardous materials by means of discharge to a septic system.
  - C. **LAND SPREADING:** Land spreading of septic waste without a valid permit from NYSDEC.
  - D. **LEAKS OR SPILLS:** Any spill, leak, or discharge or other release to the environment, actual or suspected, must be reported to the New York State Department of Environmental Conservation Spill Hotline (800-457-7362) pursuant to New York State Chemical Bulk Storage Regulations (6NYCRR Part 595) and Petroleum Bulk Storage Regulations (6NYCRR 611-614), within two hours of the release.
- 3. **Spill Response.** Should a spill occur, the owner and/or operator must take immediate action to stop the spill and restore the environment in accordance with the Village of Painted Post Emergency Spill Response Plan.
  - 4. **Production of Hazardous Materials.** Any principal use that is the production or processing of any hazardous material or toxic substance shall be prohibited.
  - 5. **Snow Disposal.** The dumping or disposal of snow or ice collected off site from roadways or parking areas into any watercourse shall be prohibited.
  - 6. **Prohibitions.**
    - A. **OPEN STORAGE:** The open storage of pesticides, herbicides, fungicides and fertilizers within one hundred (100) feet linear distance of any watercourse.
    - B. **SOLID WASTE DISPOSAL FACILITY:** Any facility for the collection, storage, transportation, transfer, processing, treatment or disposal of solid wastes, including hazardous wastes.
    - C. **BULK STORAGE:** The bulk storage of coal or salt, except in a water-tight structure constructed on an impervious material.
    - D. **SNOW DISPOSAL:** The dumping or disposal of snow or ice collected off site from roadways or parking areas.
    - E. **MINING:** All mining unless permitted by New York State Department of Environmental Conservation.
    - F. **SALT:** The open storage of salt within one hundred (100) feet linear distance of any watercourse.
  - 7. **Other Regulations.**
    - A. **UTILITIES:** All new development shall be served by sewer and water.

- B. **STORMWATER MANAGEMENT:** For any new development proposing stormwater management systems, such systems shall be designed to filter and remove contaminants from the collected runoff in accordance with NYSDEC and Village stormwater management guidelines.
- C. **HAZARDOUS MATERIALS STORAGE COMPLIANCE:** All commercial and industrial uses and home occupations shall comply with all local, state and federal requirement concerning storage, use and disposal of toxic substances, hazardous materials and hazardous wastes.
- D. **HAZARDOUS MATERIALS USE:** All commercial and industrial uses and home occupations shall provide to the Village code enforcement officer lists of all toxic substances, hazardous materials or hazardous wastes known to be used or stored on a lot together with sufficient detail to apprise the Village of the method of storage and the amount of toxic substances, hazardous materials, or hazardous wastes on the lots.
- E. **TIME FRAME:** In the case of existing uses, this information shall be supplied within six (6) months of enactment of this law. In the case of proposed use, this information will be supplied as part of the plans prepared for site plan approval.
- F. **PETROLEUM BULK STORAGE REGISTRATION:** Petroleum bulk storage facilities installed above or below ground shall comply with New York State Department of Environmental Conservation requirements.
- G. **ABANDONED WELLS:** All abandoned wells shall be properly closed to prevent groundwater contamination.
- H. **CHEMICAL APPLICATIONS:** Application of pesticides, herbicides, fungicides or chemical fertilizers: Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.
- I. **BUFFERS:** Establishment or protection of buffers/wetlands along waterways: All land owners are encouraged to establish or maintain permanent vegetated buffers and/or wetlands along waterways including creeks and swales to filter water from the adjacent land before entering the stream. Recommended buffer width shall be one-hundred (100) feet, depending on nature of the streambank and adjacent land use.
- J. **OUTSIDE STORAGE:** Any outside storage area shall be designed so as to prevent seepage and runoff from entering the ground-water or any watercourse.

§ 280.167     (Reserved)

§ 280.168     (Reserved)

**ARTICLE XV**  
**NON-CONFORMING BUILDINGS AND USES**

**§ 280.169      CONTINUATION OF NON-CONFORMING BUILDINGS, USES, LOTS**

Any lawful buildings, structure or use existing at the time of enactment of this Zoning Law may be continued and maintained in reasonable repair even though such building, structure or use does not conform to the provisions of this Law. However, any alterations and/or extensions to such a building, structure or use shall not deviate from the standards of this Law.

**§ 280.170      DISCONTINUANCE**

Whenever a non-conforming use has been discontinued or inoperative for any reason whatsoever for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Law.

When a non-conforming use is converted to a use permitted in the district in which it is located, such a use shall not thereafter be converted back to any of the uses not permitted within the district.

**§ 280.171      NECESSARY MAINTENANCE AND REPAIRS**

A building or structure of non-conforming use may be repaired or restored to a safe condition. However, any building or structure which is damaged by any cause shall be demolished if in the written opinion of the Enforcement Officer the building or structure represents a threat to the health, safety and welfare of the people of the Village.

Any building or structure ordered demolished by the Enforcement Officer shall be demolished within ninety (90) days of the formal written notice to the owner by the Enforcement Officer.

**§ 280.172      CHANGE TO OTHER NON-CONFORMING USE**

A non-conforming use of a building, structure or land may be changed to another non-conforming use more nearly conforming to the requirements of the district in which it is situated upon approval of the Planning Board in accordance with **Article XIII** Site Plan Review Process.

**§ 280.173      CONSTRUCTION STARTED PRIOR TO THIS ZONING LAW**

Any building or structure for which construction was begun prior to the effective date of this Law, or any subsequent applicable amendment, may be completed and used in accordance with the plans and specifications for the building or structure.

**§ 280.174      CONSTRUCTION ON EXISTING UNDERSIZED LOTS**

- A. Any lot held in single and separate ownership prior to the adoption of this Zoning Law and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Zoning Law for the district, shall be considered as complying with such minimum lot requirements and no variance shall be required, provided that:

1. Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.
- D. Such lot has an area of at least 4,000 square feet and a minimum width of at least forty (40) feet at the required set-back line if it is to be used for residential purposes.
- E. All other bulk schedule requirements for that district are complied with.
- B. In any district where residences are permitted, such undersized non-conforming lots shall be used for not more than one single-family dwelling.
- C. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owner's property or properties.

**§ 280.175      REDUCTION IN LOT AREA**

No lot shall be reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this Law.

**§ 280.176      (Reserved)**

**§ 280.177      (Reserved)**

**§ 280.178      (Reserved)**

**§ 280.179      (Reserved)**

**§ 280.180      (Reserved)**

## **ARTICLE XVI**

### **SPECIAL USE PERMITS**

#### **§ 280.181     AUTHORIZATION**

As authorized in Section 7-725-b of Village Law, the Village Board of Trustees authorizes the Planning Board, after public notice and hearing, to grant Special Use Permits in the classes of uses as specified in this Zoning Law, **Section 280.18** Schedule of Uses.

#### **§280.182     APPLICATION**

All applications for Special Use Permits shall be filed with the Enforcement Officer in writing, shall be made in a form required by the Planning Board, and shall be accompanied by payment of a filing fee as set by Village Board resolution according to the schedule of fees on file with the Village Clerk.

#### **§ 280.183     REQUIRED PLAN AND OPERATIONAL DETAILS**

An application for a Special Use Permit shall be accompanied by plans, and other descriptive matter in accordance with **Article XIII** Site Plan Review Process. The operation details shall include the nature of the operation, hours of operation, occupancy levels, emitted noise levels, anticipated pedestrian and vehicular traffic rates, water consumption, sewage usage and other information necessary to determine if the proposed special use meets requirements of this Law.

#### **§ 280.184     WAIVER OF REQUIREMENTS**

The Planning Board may waive any such requirements that are clearly not relevant to the site and the proposed use.

#### **§ 280.185     CONDITIONS**

The Planning Board is authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of the special use permit, any such conditions must be met in connection with the issuance of permits by the Enforcement Officer.

#### **§ 280.186     APPLICATION FOR AREA VARIANCE**

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 in accordance with **Article XVII** of the Zoning Law, without the necessity of a decision or determination of the Enforcement Officer.

#### **§ 280.187     PUBLIC HEARING**

C. **REQUIREMENT.** In every case where a Special Use Permit is required by this Law, the Planning Board shall issue such permit only after:

2. A public hearing has been held.

- D. **CONDUCT.** The public hearing shall be conducted within sixty-two (62) days from the day a complete application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Village at least five (5) days prior to the date of the public hearing. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Village clerk within five business days after such decision is rendered, and a copy mailed to the applicant.

**§ 280.188      NOTICE**

The Planning Board shall mail written notice of hearing at least ten days before such hearing to the Village Board of Trustees and any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by section two hundred thirty-nine-m of the general municipal law accompanied by a full statement of the matter under consideration.

**§ 280.189      COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT**

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight (8) of the Environmental Conservation Law and its implementing regulations as codified in Title Six (6), Part Six Hundred Seventeen (617) of the New York Codes, Rules and Regulations.

**§ 280.190      STANDARDS APPLICABLE TO ALL SPECIAL USES**

The Planning Board may issue a Special Use Permit only after it has found that all the following standards and conditions have been satisfied.

- A. Location, size of use and structure, nature and intensity of operations involved, nearness of other traffic producing operations, size of site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with orderly development of the district.

Location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair their value.

- B. No Special Use Permit shall be issued for a use on a property where there is an existing violation of this Law.
- C. Any Special Use Permit which is not exercised within one year from the date of issuance is hereby declared to be revoked.
- D. Special Use Permits shall be reapplied for upon change of use.



- E. Any substantial deviation or abuse of the terms of a Special Use Permit shall be considered a violation of this Zoning Law.

**§ 280.191      RELIEF FROM DECISION**

Any person or persons, jointly or severally aggrieved by any decision of the Planning Board may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York.

**§ 280.192      COSTS**

Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

**§ 280.193      PREFERENCE**

All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

**§ 280.194      (Reserved)**

**§ 280.195      (Reserved)**

**§ 280.196      (Reserved)**

**§ 280.197      (Reserved)**

**ARTICLE XVII**  
**ZONING BOARD OF APPEALS**

**§ 280.198     ESTABLISHMENT AND DUTIES**

Pursuant to Village Law Section 7-712, the Village Board of Trustees shall create a Zoning Board of Appeals consisting of five members. The mayor shall appoint the Zoning Board of Appeals and shall designate its Chairman subject to the approval of the Village Board of Trustees. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson. In making such appointment, the Village Board of Trustees may require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members. A member of the Zoning Board of Appeals shall not at the same time be a member of the Village Board of Trustees.

Removal of members. The mayor shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by local law.

- A. **TERM OF APPOINTMENT.** In the creation of a new Zoning Board of Appeals, or the re-establishment of terms of an existing board, the appointment of members to the board shall be of terms so fixed that one member's term shall expire at the end of the Village official year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each official year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed by the Village Board of Trustees for a term of five years.
- B. **TERMS OF MEMBERS NOW IN OFFICE.** Members now holding office for terms which do not expire at the end of a year shall, upon expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms of five (5) years.
- C. **VACANCY IN OFFICE.** If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Mayor by appointment for the unexpired term.
- D. **ASSISTANCE TO THE ZONING BOARD OF APPEALS.** The Village Board of Trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper not exceeding the appropriation made by the Village Board of Trustees for such purpose. Such Board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village board of trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
- E. **RULES OF PROCEDURE, BY-LAWS, FORMS.** The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Zoning Law. Such rules, by-laws, and forms shall not be in conflict with,

nor have the effect of waiving, any provisions of this Zoning Law or any other local law or ordinance of the Village of Painted Post. Such rules, by-laws, and forms, and any subsequent amendments or supplements thereto, shall be submitted to the Village Board of Trustees by the Zoning Board of Appeals for approval and filing for public view. The Village Board of Trustees shall move to approve, reject, or modify such rules, by-laws, and forms within six (6) days after submission. Failure of the Village Board of Trustees to so move shall be construed to constitute approval thereof.

- F. **MEETINGS.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public to the extent provided in article seven of the public officers' law. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media at least seventy-two hours before such meeting. Public notice of the time and place of every other meeting shall be given, in one or more designated public locations at a reasonable time prior thereto. The public notice provided for by this section shall not be construed to require publication as a legal notice.
- G. **MEETING MINUTES.** The Zoning Board of Appeals shall keep minutes of its proceedings showing the substance of its deliberations and the vote on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record.
- H. **REFERRALS TO THE PLANNING BOARD.** At least fourteen (14) days before the date of a hearing held in connection with any appeal or application submitted to the Zoning Board of Appeals, said Board shall transmit to the Planning Board a copy of said appeal or application, and shall request that the Planning Board submit to the Zoning Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing.

#### **§ 280.199      PUBLIC NOTICE AND HEARING**

- A. **PUBLIC NOTICE.** Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with the Village Law as follows:
  - 1. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Village of Painted Post not less than five (5) days prior to the date of such hearing.
  - 2. By giving written notice of hearing to any appellant or applicant, and any other such notice to property owners in an affected area as may be required by the Zoning Board of Appeals, to the Planning Board, and to the Village Board not less than five (5) days prior to such hearing.

3. By giving written notice of hearing at least five days before such hearing to any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by Section 239M of the General Municipal Law accompanied by a full statement of the matter under consideration.

- B. **COSTS.** The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

## **§ 280.200      APPEALS**

Hearing appeals. Unless otherwise provide by local law, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of the zoning law. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

- A. Notice of Appeal shall be filed with the Enforcement Officer and the Secretary to the Zoning Board of Appeals in writing, in a form required by such Board, within sixty (60) days after the filing in the Village clerk's office of any order, requirement, decision interpretation or determination of the Enforcement Officer specifying the grounds thereof and the relief sought.
- B. Upon filing of a Notice of Appeal and payment of a filing fee according to the schedule of fees on file with the Village Clerk by the appellant or applicant, the Enforcement Officer shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- C. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal The Zoning Board of Appeals shall decide on the appeal within sixty-two (62) days after the final hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.
- D. **STAY UPON APPEAL.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the Zoning Board of Appeals, after Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Enforcement Officer and on due cause shown.
- E. **ACTION BY THE BOARD.** Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order,

requirement, decision, interpretation or determination as in its opinion ought to be made in the matter by the Enforcement Officer and to that end shall have all the power of the Enforcement Officer.

F. **FILING OF DECISION AND NOTICE.** The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

G. **COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT.** The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.

H. **REHEARING.** A motion of the Zoning Board of Appeals to hold a rehearing to review any order, decision, or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members present provided the board finds that the rights vested in the persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

## **§ 280.201      VARIANCES**

There are two types of variances on which the Zoning Board of Appeals will act: area variance and use variance.

### **A. AREA VARIANCES.**

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Enforcement Officer, shall have the power to grant use variances as defined herein.
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the community or neighborhood by such grant. In making such determination the Board shall also consider:
  1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting 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;
  5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
3. The Zoning 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.

**B. USE VARIANCE.**

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Enforcement Officer, shall have the power to grant use variances as defined herein.
2. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
  - A. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - B. the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - C. the requested use variance, if granted, will not alter the essential character of the neighborhood;
  - D. that the alleged hardship has not been self-created.
3. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**C. APPLICATIONS FOR VARIANCES.** All applications for variances shall be filed with the Enforcement Officer and the Secretary of the Zoning Board of Appeals in writing, shall be made in a form required by the Zoning Board of Appeals, and shall be accompanied by payment of filing fee (as determined by the Village Board of Trustees) and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

**D. REFERRAL TO THE PLANNING BOARD.** Every proposed variance shall be referred to the Planning Board by the Secretary of the Zoning Board of Appeals prior to any action

by the Zoning Board of Appeals, for a recommendation as to the appropriateness of said variance. The Planning Board's recommendation shall make reference to the effect of the variance on the intent of the Zoning Law and its relation to the Comprehensive Plan. If the Planning Board fails to present a recommendation to the Zoning Board of Appeals within forty-five (45) days of the date of a referral, the Zoning Board of Appeals may act without such recommendation. The Zoning Board of Appeals shall not act contrary to the Planning Board's recommendation, except by adoption of a resolution which fully states the reasons for such action.

- E. **EXPIRATION OF A VARIANCE.** Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Zoning Board of Appeals
- F. **IMPOSITION OF CONDITIONS.** Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of property. These conditions shall be consistent with the spirit and intent of the zoning law and shall be imposed for the purpose of minimizing any adverse impact that the variance may have on the neighborhood or community.

§ 280.202	<u>(Reserved)</u>
§ 280.203	<u>(Reserved)</u>
§ 280.204	<u>(Reserved)</u>
§ 280.205	<u>(Reserved)</u>

## **ARTICLE XVIII AMENDMENTS**

### **§ 280.206     PROCEDURE**

The Village Board, may, from time to time, on its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this Zoning Law after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Village Board, and if on behalf of a petitioner shall be accompanied by a certified check in the amount shown on the schedule of fees on file with the Village Clerk to help defray the cost of advertising the hearing on said proposed amendment and incidental disbursement.

### **§ 280.207     APPLICATION FOR AN AMENDMENT**

A property owner(s) or his agent(s) may initiate a request for an amendment to this Law by filing an application with the Enforcement Officer. Such application shall be accompanied by a legal description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof and a filing fee as required in **Article XXI**, no part of which is returnable.

### **§ 280.208     ADVISORY REPORT BY PLANNING BOARD**

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Village Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Village Board, the Village Board may act without such report. If the Planning Board disapproves the proposed amendment, or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

### **§ 280.209     PUBLIC NOTICE AND HEARING**

The Village Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. By publishing a notice of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Village not less than five (5) days prior to the date of the public hearing.
- B. By giving written notice of hearing to any required Municipal, County, Regional, Metropolitan, State, or Federal agency in the manner prescribed by Law.



**§ 280.210      DECISION BY VILLAGE BOARD OF TRUSTEES**

The Board of Trustees shall set the matter for public hearing as required and shall render its decision within sixty (60) days of the public hearing after the receipt of the report and recommendations of the Planning Board. If the Board of Trustees proposes to adopt an amendment that is substantially altered from the recommendation of the Planning Board, the Board of Trustees shall refer said proposed amendment back to the Planning Board for report and recommendation, before adoption. The Planning Board shall consider and report on said amendment within thirty (30) days of receipt of said referral. Failure of the Planning Board to so report within the aforesaid thirty (30) days will be deemed to constitute approval by the Planning Board.

**§ 280.211      NOTIFICATION OF DECISION**

The Village Board of Trustees shall notify the applicant for amendment in writing of the Board's decision within five (5) days after the decision has been rendered.

**§ 280.212      PROTEST BY OWNERS**

If a protest against the proposed amendment is presented to the Village Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the area of land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least four members of the Village Board.

**§ 280.213      FILING WITH THE SECRETARY OF STATE**

Every amendment in this Local Law shall be filed with the Secretary of State of New York State and become effective five (5) days thereafter.

**§ 280.214      (Reserved)**

**§ 280.215      (Reserved)**

**§ 280.216      (Reserved)**

**§ 280.217      (Reserved)**

**§ 280.218      (Reserved)**

## **ARTICLE XIX**

### **ADMINISTRATION**

#### **§ 280.219     ENFORCEMENT**

This Law shall be enforced by the Enforcement Officer, who shall be appointed by the Village Board of Trustees. No building permit shall be issued by him except where all the provisions of this Law have been complied with. He shall keep the Board of Zoning Appeals advised of all matters pertaining to the enforcement of this Law other than routine duties and shall submit a monthly report to the Village Board of Trustees enumerating the applications received, inspections made, permits issued or refused, and other action taken.

#### **§ 280.220     ZONING PERMIT**

No development which is subject to site plan review shall begin before site plan approval is obtained from the Village Planning Board and before a permit thereof has been issued by the Code Enforcement Officer and applicable fees paid to the Village Clerk. Except on written order of the Zoning Board of Appeals, no such zoning permit shall be issued for any development where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Law.

- A. There shall be submitted with all applications for zoning permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Law.
- B. One copy of such layout or plot plan shall be returned when approved by the Enforcement Officer together with such permit to the applicant upon the payment of a fee according to the schedule of fees on file with the Village Clerk.
- C. Upon approval of the application, and upon receipt of required fees therefore, the Enforcement Officer shall issue a zoning permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.
- D. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved". One set of such approved plans and specifications shall be retained in the files of the Enforcement Officer and the other set shall be returned to the applicant together with the zoning permit and shall be kept at the building site open to inspection by the Enforcement Officer or his authorized representative at all reasonable times.
- E. If the application together with the plan, specifications and other documents filed therewith, describe proposed work which does not conform to all the requirements of the applicable zoning regulations, the Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the

Enforcement Officer shall show cause for the refusal, together with the reasons therefore, to be transmitted to the applicant in writing.

**§ 280.221      BUILDING PERMITS**

No building or structure shall be erected, added to, or structurally altered until a building permit thereof has been issued by the Enforcement Officer and applicable fees paid to the Village Clerk.

**§ 280.222      CERTIFICATE OF OCCUPANCY**

No land shall be used or occupied and no building or structure hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Enforcement Officer in accordance with the provisions of applicable Village Laws and Codes.

All certifications of occupancy for new or altered buildings or structures shall be applied for coincident with the application for a building permit heretofore. Such certificate of occupancy shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this Zoning Law.

**§ 280.223      (Reserved)**

**§ 280.224      (Reserved)**

**§ 280.225      (Reserved)**

**§ 280.226      (Reserved)**

**§ 280.227      (Reserved)**

**ARTICLE XX**  
**REMEDIES**

**§ 280.228      PENALTY**

Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed, or there exists anything in violation of any of the provisions of this Law: and any person who shall assist in the commission of any violation of this Law or any conditions imposed by the Village Board of Trustees, Planning Board or the Zoning Board of Appeals; or who shall build, contrary to the plans and specifications submitted to the Enforcement Officer and by him certified as complying with this Law shall be guilty of a misdemeanor and subject to a fine of not less than fifty (50) dollars or more than one hundred (100) dollars, or to imprisonment for a period of not less than one (1) day, or more than thirty (30) days, or both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation, omission, neglect, or refusal shall continue.

**§ 280.229      ALTERNATIVE PENALTY**

In cases of any violation or threatened violation of any of the provisions of this Law, or conditions imposed by the Village Board of Trustees, Planning Board, Enforcement Officer, or Zoning Board of Appeals, in addition to other remedies herein provided, the Board of Trustees may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

**§ 280.230      (Reserved)**

**§ 280.231      (Reserved)**

**§ 280.232      (Reserved)**

**§ 280.233      (Reserved)**

**§ 280.234      (Reserved)**

**ARTICLE XXI**  
**FEE SCHEDULE**

**§ 280.235      SCHEDULE OF FEES**

Schedule of fees for all building permits and applications shall be set by Village Board of Trustees resolution from time to time.

**§ 280.236      (Reserved)**

**§ 280.237      (Reserved)**

**§ 280.238      (Reserved)**

**§ 280.239      (Reserved)**

**§ 280.240      (Reserved)**