

PROPOSED LOCAL LAW D OF THE YEAR 2010

A Local Law entitled “Site Plan and Special Permit Review by Town Board.”

BE IT ENACTED by the Town Board of the Town of Hyde Park as follows:

Section-I: **TITLE**

This Local Law shall be known and cited as Town of Hyde Park Local Law No. ___ of 2010 entitled “Site Plan and Special Permit Review by Town Board.”

Section-II: **LEGISLATIVE INTENT AND PURPOSE.**

- A. Pursuant to Article 16 of New York Town Law, the Town Board of the Town of Hyde Park is empowered by the Legislature to regulate the use of land within the Town for the purpose of promoting the health, safety, morals, and the general welfare of the community. The general welfare of the Town of Hyde Park is promoted and sustained by the creation of a healthy tax base. A thriving and vital commercial tax base is essential to relieve the residential property owners of the Town from shouldering the lion’s share of the financial burdens for supplying municipal services. New commercial development is particularly important to reduce the burden of school taxes because such properties do not generate a demand on school services like residential properties do.

- B. Currently, a large percentage of valuable real estate within the Town is not on the tax rolls because it is owned by entities that are exempt from real property taxation. These tax exempt properties require the other taxpayers to make up the difference. In tough economic times, it is all the more important for the Town of Hyde Park to attract and encourage commercial development to provide much needed jobs and tax revenues. The Town Board has determined that it is in the best interests of the residents and taxpayers of the Town of Hyde Park to expand the commercial tax base. The Town Board also wishes to promote commercial development in the Town of Hyde Park so that critical infrastructure, like water and sewer systems, which are vital to the health and economy of the Town, is expanded in a cost efficient manner.

- C. The Town Board has determined that the expansion of the commercial tax base is a duty that is so vitally important to the residents of the Town that it must not be delegated by its elected representatives. A hands on approach on the part of the Town Board is required. To achieve that end, the Town Board hereby rescinds its delegation to the Planning Board of the review powers for site plan and special permit review. Pursuant to Town Law §274-a, the Town Board hereby designates itself as the administrative body to review Site Plan applications in and for the Town of Hyde Park. Pursuant to Town Law §274-b, the Town Board hereby designates itself as the administrative body to review Special Permit applications in and for the Town of Hyde Park.

- D. This Local Law is consistent with the goals of the Town of Hyde Park’s Comprehensive Plan which stressed the need for economic development. This Local Law recognizes that the Zoning Code of the Town of Hyde Park embodies the principles of the Greenway Compact that are set forth in the Greenway Connections and ratifies the planning principles set forth in the Greenway Guides. The Town Board recognizes its obligations to continue to apply the State Environmental Quality Review Act so that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes. To discharge its duties under SEQRA, the Town Board will continue the practice of retaining experts in the fields of municipal planning, engineering, environmental law and other areas to assist in the review of the rezoning, site plan and special permit applications brought before the Board. This Local Law will also direct Town Board members to attend at least four hours of training each year to help them undertake their duties.

- E. This Local Law also addresses several deficiencies and inconsistencies in the Bellefield Planned Unit Development District. In particular, this Local Law removes the reference to the Bellefield District as an overlay district. These changes are consistent with the Comprehensive Plan.

Section-III: AMENDMENT OF CHAPTER 108 “ZONING”

Chapter 108 of the Town Code of the Town of Hyde Park is hereby amended as set forth below.

ARTICLE 2: DEFINITIONS

The Definitions of the following terms that appear at §108-2.2 shall be amended to read as follows:

BELLEFIELD PLANNED DEVELOPMENT DISTRICT

A mixed-use planned development district, the boundaries of which are identified on the Town Zoning Map.

SPECIAL USE PERMIT

A permit issued by the pursuant to Article 8 for a particular land use that is permitted in this chapter, subject to requirements imposed by this chapter.

ARTICLE 4: GENERAL REGULATIONS

§ 108-4.3(A)(3) shall be amended to read as follows:

(3) Adaptive reuse increase. The adaptive reuse of an existing building that will preserve and enhance the architectural or historic integrity of the building and the district in which it is located shall be entitled to an increase of 50% in density and scale, where applicable. The Town Board shall make such determination based on reference to the architectural, scenic and historic character of the district as set forth in the Comprehensive Plan and on objective evaluation of the project and the current architectural, scenic and

historic resources in the district. Such determination is not considered a use variance or area variance and is not subject to appeal to the Zoning Board of Appeals.

§ 108-4.3(C)(3)(A) shall be amended to read as follows:

(a) Commercial trailers may be placed on any lot for the purpose of storage accessory to any permitted commercial or nonresidential use, provided that the applicant first obtains site plan approval and a permit from the Zoning Administrator.

§ 108-4.3(G)(2) shall be amended to read as follows:

(2) Streams. Any use or construction near a stream shall be subject to the following restrictions:

(a) No use or construction of any physical improvement shall be permitted within the stream corridor, unless such use or construction:

[1] Is specifically permitted otherwise in this chapter (such as in a landing under § [108-5.8](#)); or

[2] Has received a permit from NYSDEC pursuant to Article 15 of the Environmental Conservation Law; or

[3] Is allowed by virtue of being exempt from the permit requirements of Article 15 of the Environmental Conservation Law.

(b) Where no NYSDEC permit is required, no increase in the sediment load of any such stream shall result from the construction of a physical improvement or the subject use.

The first paragraph of § 108-4.5 shall be amended to read as follows:

§ 108-4.5. Site development standards.

All development that requires site plan approval shall also be subject to the following site development standards. Site development standards are mandatory rules, subject to modification by the Town Board. In determining whether to modify a standard for a proposed project, the reviewing board may take into consideration the following: (1) the practical difficulties of applying the standard to the particular project; (2) the potential adverse impact on surrounding properties and the neighborhood of applying or not applying the standard to the proposed project; and (3) the feasibility of alternate means or measures to attain the same goal as the standard. When an applicant objects to the application of a standard to his or her project and the reviewing board requires compliance, in its resolution of approval or disapproval the reviewing board shall state its findings and the reasons for its decision with reference to the considerations set forth above.

§ 108-4.5(B)(1) shall be amended to read as follows:

B. Required off-street parking.

(1) The Town Board shall determine reasonable and appropriate off-street parking requirements, taking into consideration all factors entering into the parking needs of each case as part of its site plan and review.

§ 108-4.5(B)(2)(g)[2] shall be amended to read as follows:

[2] Parking designs with angle parking less than 90° may have shorter total dimensions of stall and aisle when deemed appropriate by the reviewing board.

The first paragraph of § 108-4.5(C)(1)(d) shall be amended to read as follows:

(d) Sight triangle. To assure motorists have a clear line of sight at intersections, the Guidelines for Driveway Design and Location, by the Institute of Transportation Engineers, and Policies and Standards for Entrances to State Highways, published by the New York State Department of Transportation shall be used as reference standards. In general, except for existing trees having all branches within six feet of the ground removed, no structure or planting more than three feet in height, as measured from the street surface at the nearest edge of the street, shall be erected, placed or maintained within the triangular area formed by:

§ 108-4.5(C)(3)(d) shall be amended to read as follows:

(d) In all Hamlet, Hamlet Core, Landing, Neighborhood Core, East Park Business, Town Center Historic and Neighborhood Business Districts, the development of any lot shall provide a walkway utilizing sidewalks or an acceptable equivalent along the full frontage of said lot to connect adjacent lots and to enhance and provide definition to the street providing frontage for the lot.

§ 108-4.5(D)(3) shall be amended to read as follows:

(3) Specifications. In each case, the final design shall provide screening of sufficient height and opacity to minimize the view of objectionable areas consistent with the above standards and the principles set forth in the Greenway Connections.

§ 108-4.5(E)(1)(b)[2] shall be amended to read as follows:

[2] Within any Core or Business District, and as required by the Town Board, vegetative buffers and/or trees shall be provided adjacent to the walkway that is part of the street providing frontage for any lot developed under the provisions of this chapter.

§ 108-4.5(F)(1) shall be amended to read as follows:

(1) Open spaces disturbed by construction shall be restored with appropriate landscaping after construction is completed in accordance with a schedule previously agreed to by the Town Board. In addition to the definition of open space in § [108-2](#), the following specific standards shall apply:

§ 108-4.5(K) shall be amended to read as follows:

(1) Open spaces disturbed by construction shall be restored with appropriate landscaping after construction is completed in accordance with a schedule previously agreed to by the Town Board. In addition to the definition of open space in § [108-2](#), the following specific standards shall apply:

§ 108-4.7(A)(2) shall be amended to read as follows:

(2) No major permanent modification of land contour of existing land or modification of structures or removal of trees exceeding 12 inches in diameter as measured at four feet from the ground shall be permitted within such open space without site plan approval.

ARTICLE 5: DISTRICT REGULATIONS AND STANDARDS

§ 108-5.1(E) shall be amended to read as follows:

E. Modification of district standards. District standards are mandatory rules, subject to modification by the Planning Board or the Town Board, in the manner set forth in § [108-4.5](#).

§ 108-5.12 (A) & (B) shall be amended to read as follows:

§ 108-5.12. Bellefield Planned Development District standards.

A. The Bellefield Planned Development District is to be developed pursuant to a comprehensive development plan for all or a portion of the property, provided that if only a portion is to be developed, the portion to be developed pursuant to a comprehensive development plan shall not be less than 100 acres, except as provided below in § [108-5.12C](#). Any application for and approval of development in this district shall be conducted pursuant to the provisions of Article 7, Planned Unit Development, except as modified herein. Where the applicant owns or controls a parent parcel of less than 100 acres, the waiver provision in § [108-5.12C](#) shall apply. If the applicant owns or controls more than 100 acres, the comprehensive development plan for less than all of the applicant's acreage shall not be permitted to leave out of the plan a lot less than 100 acres in size, as it would create a substandard lot for development in the Bellefield District.

B. The following standards shall apply in the Bellefield Planned Development District, in addition to the standards applicable to all PUDs pursuant to Article 7. Where there is a conflict between these standards and those of Article 7, the standards of the Bellefield District shall control within the District.

(1) Uses. In addition to meeting the general purposes of this district as defined in § [108-3.1.1K](#), developments in the Bellefield Planned Development District shall encourage a mixture of uses to foster the following goals, when practicable and appropriate:

- (a) Promote tourism-related businesses.
- (b) Expand the Town's commercial tax base.
- (c) Encourage architectural designs that complement the FDR Home and Valkill National Historic Sites.
- (d) Develop a trail corridor or other transportation link between the FDR Home and Valkill.
- (e) Support the existing commercial activity in the Town Center Historic District.
- (f) Expand the existing mixed use in the Town Center Historic District in a sensitive manner.
- (g) Maintain and develop an attractive gateway entrance to the Town Center Historic District at Teller Hill.
- (h) Preserve and protect important views and natural features of the landscape.
- (i) Support and enhance safe and efficient pedestrian circulation.

(2) Density. The permitted bulk regulations and density for development of the Bellefield Planned Development District shall be established by the Town Board, consistent with the purposes of the District.

(3) Mixed use. The Bellefield Planned Development District shall be a mixed use district. Tourist-related facilities are encouraged. Not less than 50%, nor more than 80% of the gross floor area of all development in the district may consist of non-residential development.

(4) Permitted Uses. Subject to approval of the PUD concept plan by the Town Board, the following uses shown on the Schedule of Use Regulations (§ [108-5.14](#)) are permitted: single family residential, two family, multiple dwellings, townhouses, community residence, residential care facility, bed & breakfast, civic facility, general commercial, commercial recreation, community facility, cultural facility, day care center, educational institution, health care facility, lodging facility, municipal facility, nursery school, nursery, public utility facility and religious use. The Town Board may also approve any other use that is consistent with the purposes of the District.

(5) Open space. Tree rows, hedgerows, stone walls, and similar features shall be retained when accommodating any new use, for the purpose of maintaining the rural flavor of the district and conserving the value of lots. Any required dedication or reservation of a park or parks for recreation purposes shall be contiguous with other Bellefield Planned Development open spaces in order to maintain the district's character.

(6) Parking. Parking shall be in accordance with § 108-4.5(B).

(a) On-street parking shall be included on proposed streets when appropriate.

(b) Large expanses of pavement shall be avoided in favor of dispersed smaller areas separated by landscaping, plazas and other uses in order to diminish the visual dominance of automobiles or vacant pavement over the buildings.

(c) The primary use of any site shall not be, either visually or physically, parking or storage of vehicles.

(d) Off-street parking, other than prescribed, shall be developed away from Route 9, Route 9G, and St. Andrews Road.

(e) Bus stops and other provisions for mass transit shall be encouraged where appropriate.

(e) Multilevel parking structures are prohibited in this district.

(7) Access. The primary means of access are the corridors established by streets.

(a) All streets shall contain a sidewalk or other appropriate walkway no less than five feet in width.

(b) Direct access from Route 9 shall be kept at a minimum and shall have landscaping and architectural features consistent with the entrances to the FDR Home, the Valkill National Historic Site and the Culinary Institute Campus.

(c) Wherever practical, the extension or improvement of identified bicycle routes shall be provided.

(8) Screening. Any outdoor storage area, other than sheds, shall be screened from all walkways and streets. Refuse storage areas shall be screened from all walkways and streets.

(9) Signs. Signs are subject to regulation under Article 24 of this chapter.

(10) Landscaping. Landscaping and screening shall be in accordance with the provisions of this Chapter.

(11) Architectural features. New buildings shall not mimic nearby historic structures, but shall be designed in a manner consistent with the architectural features of such structures in terms of form, materials, fenestration and roof shape.

(a) Buildings shall incorporating attractive bays, balconies, cornices, porches and similar architectural features as well as changes in wall plane to provide visual interest shall be encouraged

(b) New and renovated buildings shall utilize creative design to incorporate the traditional building forms, practices and styles found in the Town.

(c) Building facades shall contain a variety of well-articulated forms, arranged and interrelated in a manner that creates a unified composition of visual interest.

(d) New buildings shall utilize natural, recycled or synthetic materials such as wood, stone, masonry, recycled products and tile to provide the exterior finishes whenever practicable. Using stone in the manner characteristic of the major buildings of the Town shall be preferred.

(e) The major/minor axes of any new building plan form shall be related to the site frontage in the same manner as existing buildings in the Bellefield Planned Development District.

(f) Building facades shall vary one from another, but not excessively or dramatically.

(g) The materials and details used on any new building shall present an appearance in proportion, texture and application that is consistent with, and of no less quality than, that presented by the majority of buildings fronting on the same corridor.

(h) Building height shall be appropriate for an historic area.

(12) Building location. Buildings and tree plantings shall be used to establish visual corridors in the Bellefield Planned Development District.

(a) Buildings shall not be located so as to appear secondary to parking lots or automobile storage areas.

(b) Any new buildings, structures or parking shall be set back from Route 9 or Route 9G so as to be visually unobtrusive when viewed from said roads. Along Route 9, 150 feet shall be the minimum setback for all structures and parking.

(12) Protection. Any improvements or other modifications that alter significant portions of the existing rural and undeveloped landscape, by clear-cutting, major grading and similar landscape altering activities, shall be avoided.

§ 108-5.13(B)(1) & (2) shall be amended to read as follows:

(1) Site plan approval is required for all new buildings and major site development activities in the district.

(2) To assure the orderly development of the campus, the educational institution shall periodically prepare an advisory master plan for five or more years. This plan may be amended from time to time to address new or changed circumstances. A copy of each such plan, along with amendments to it, if any, shall be presented to the Hyde Park Town Board in a timely manner.

ARTICLE 6 NONCONFORMING USES, STRUCTURES AND LOTS

§ 108-6.3(E) shall be amended to read as follows:

E. Expansion. The Town Board may issue a special use permit allowing the expansion of a nonconforming use by up to 50% of its area in gross square feet at the time of the effective date of this chapter, provided that all other requirements for a special use permit can be met and that such expansion does not reduce any nonconforming setbacks by more than 20%. No use prohibited by § [108-4.3D](#) may be expanded.

§ 108-6.4(A) & (B) shall be amended to read as follows:

A. Rebuilding. A nonconforming structure may be rebuilt in the event of its total or partial destruction, to occupy the same or a lesser amount of footprint, but may not exceed the original height of the totally or partially destroyed structure. Such rebuilding shall require site plan review and approval by the Town Board.

B. Expansion. The Town Board may issue a special use permit allowing an expansion of a nonconforming structure by up to 50% of its area in gross square feet at the time of the effective date of this chapter, provided that all other requirements for a special use permit can be met and that such expansion does not reduce any nonconforming setbacks by more than 20%. No use prohibited by § [108-4.3D](#) may be expanded.

ARTICLE 7 PLANNED UNIT DEVELOPMENT

The first paragraph of §**108-7.2** shall be amended to read as follows:

§ 108-7.2. Eligibility.

The PUD Overlay District is designed to allow an applicant to submit a proposal for consideration of any uses or any mixture of uses permitted by this chapter in any district that are consistent with the Comprehensive Plan of the Town, and to allow the Town Board to approve any proposal which the Town Board determines to be in the best interest of the public health, safety and welfare, along with any conditions, requirements or limitations thereon which the Town Board deems advisable. Final approval of a PUD proposal rests with the Town Board. However, no PUD shall be eligible for approval unless the following minimum conditions are met:

§**108-7.2(F)** shall be amended to read as follows:

F. Phasing. If the development is to be phased, the Town Board may require that residential and nonresidential uses be included in each phase of the development to assure that each phase maintains the percentage balance of residential and nonresidential uses in the PUD concept plan. (See § [108-7.3B](#) below.)

§**108-7.3** shall be amended to read as follows:

§ 108-7.3. Procedure.

A PUD application shall include a PUD concept plan. The Town Board is the reviewing agency for the PUD concept plan, with advice from the Planning Board. The review process consists of the following steps:

A. Preapplication conference. A request for a preapplication conference shall be submitted, along with the appropriate preapplication fee, to the Zoning Administrator. The intent of the preapplication conference is for the applicant to obtain a general awareness of the Town's planning rationale, the compatibility of the proposed PUD with existing and anticipated land uses in the vicinity, and a familiarity with the Town's PUD procedures. The conference assists the applicant in determining the suitability of a proposed PUD in the proposed location, without incurring the expense of preparation of a PUD concept plan. The conference will be conducted at a meeting of the Town Board, open to the public, and included on its agenda in advance of the meeting. The Planning Board shall be invited to attend this conference. The preapplication conference is mandatory, but does not require the filing of a PUD concept plan or plat.

B. PUD concept plan submission. A PUD concept plan is a detailed plan that shows the proposed use and scale, density and intensity of use for all uses of all lands within the PUD in accordance with the information requirements in subsections §§ [108-7.4](#) and [108-30](#). An application for approval of the PUD concept plan shall be submitted in electronic form together with three paper copies to the Zoning Administrator, along with the appropriate application fee as set forth in the current fee schedule. The Zoning Administrator shall make a determination as to whether the applicant has met all filing requirements and shall notify the applicant of any deficiency. When the filing requirements have been met the Zoning Administrator shall forward a complete set of application documents to the Town Board, together with a statement that the filing requirements have been met. If the PUD is to be phased, a PUD concept plan for each phase shall be submitted as part of the initial submission.

C. Town Board Review of PUD Concept Plan. The Town Board shall review the application for compliance with the standards set forth in § [108-7.5](#) of this chapter. Within 20 days after receipt of an administratively complete application, the Town Board shall entertain a presentation of the project by the applicant at a Town Board Meeting, review the application materials and the PUD concept plan, and review the EAF or DEIS submitted by the applicant. All PUD applications shall be considered Type I actions under SEQRA requiring coordinated review. The Town Board shall thereupon determine all other involved agencies, based on the material submitted by the applicant, and shall circulate a lead agency notification to all other involved and interested agencies as required by SEQRA. The Town Board shall be lead agency for purposes of SEQRA review unless a different lead agency is designated under the SEQRA regulations.

D. Planning Board action on the PUD concept plan. Prior to completion of its SEQRA review, the Town Board shall forward the PUD concept plan to the Planning Board for review, comment and advisory opinion. The Planning Board shall have thirty (30) days to review, advise and comment and submit its report to the Town Board. The Town Board shall hold a public hearing on the proposed PUD concept plan, which public hearing may be combined with a public hearing on the DEIS. Public notice shall be required in the same manner as provided in § [108-8.3C](#). The Town Board shall, within 62 days of the close of the public hearing, approve, approve with conditions, or disapprove the PUD concept plan. The approval of the Town Board shall be in the form of a local law which shall identify all the provisions of the PUD concept plan and amend the zoning map accordingly. If the Town Board fails to adopt the PUD concept plan, there shall be no further proceedings.

E. Final Development Plan. Upon the Town Board's adoption of a local law approving the concept plan and amending the Town's zoning map, the applicant shall submit a final development plan, in the same manner and level of detail as a site plan for approval by the Town Board. If the development is to be phased, the final development plan shall include a development plan for each phase. The final development plan is a detailed development plan prepared to scale showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, land uses, and principal site development features. The submittal requirements are set forth in the following section.

F. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board.

§108-7.5 shall be amended to read as follows:

§ 108-7.5. Standards.

A. In reviewing the concept plan and the final development plan, the Town Board shall apply the general requirements set forth in this article, as well as Article 4 of this chapter and the standards for the underlying district set forth in Article 5, unless the Town Board determines that alteration of those standards in the context of the PUD would better protect the public health, safety and general welfare and carry out the purposes of the Comprehensive Plan of the Town and the Greenway Connections.

B. In addition to the standards set forth above, no PUD may be approved by the Town Board unless the Town Board determines that it meets the following standards:

(1) The proposed PUD must support and be consistent with the statement of land use policies, principles and guides in the Greenway Connections.

(2) The proposed PUD must be suitable and compatible for the particular underlying district.

(3) The proposed PUD must be compatible with the character of the underlying district with particular regard for the visual, aesthetic, safety and traffic impacts.

(4) Any physical improvements in the proposed use must satisfy the site development standards applicable to the underlying district in which the proposed use is located, and with the standards for such underlying district.

(5) The proposed PUD must conform to requirements in §§ [108-7.1](#) and [108-7.2](#).

(6) Bicycle paths shall be included in such proposed development based on the following:

(a) The need for parallel bikeway routes that bypass busy commercial corridors within core areas where on-street parking may conflict with bicycle movement.

(b) The need for routes linking such bypass to a Core area location where bicycle racks are provided.

§108-7.6 shall be amended to read as follows:

§ 108-7.6. Decisions.

A. Approval of a PUD concept plan by the Town Board shall be considered a binding commitment on the applicant and all subsequent owners to adhere to such plan in the final development plan review and approval process. A PUD concept plan approval does not in any way require the applicant to proceed with the approved plan.

B. The Town Board shall approve, disapprove, or approve with modifications a final development plan in the same form and manner as a site plan pursuant to § [108-9.4](#), and the provisions therein shall be fully applicable to such approvals. Any approval of a PUD concept plan or final development plan shall incorporate the findings required under SEQRA and shall be made in written form that includes each of the following:

- (1) Identification of each use consistent with the use classifications of this chapter;
- (2) The maximum scale and density applicable to each such use;
- (3) The manner in which the proposed plan supports and is consistent with the requirements in §§ [108-7.1](#) and [108-7.2](#) and the statement of land use policies, principles and guides in the Greenway Connections;
- (4) The manner in which the proposed plan is found to be suitable for the particular underlying district;
- (5) The manner in which the physical improvements will satisfy the site development standards applicable to the underlying district in which the proposed use is located, and will comply with the standards for such district;
- (6) The particular elements of a site plan that are subject to Planning Board approval during site plan review;
- (7) Any conditions which shall become restrictions for the approved PUD concept plan with the same force as if they were included in Article 5;
- (8) Any required dedication or reservation, which must include a determination that such dedication or reservation is related both in nature and extent to the impact of the proposed project; and
- (9) Modifications of site development elements necessary to ensure that any physical improvements meet the standards established in Article 5 for the particular underlying district.

C. Any disapproval of a final development plan must be in writing and must address the specific reasons for the disapproval.

D. Expiration. A final development plan approval shall be deemed to authorize only the particular uses specified in such approval and shall expire if substantial construction of the

final development plan is not commenced within two years from the date of the final signature of the plan maps. The Town Board may, at its discretion, grant an extension to an approved final development plan. The applicant shall submit a written request 60 days prior to the date of expiration of the final development plan approval, requesting an extension for a specified time and the reason therefor. In granting the extension, the Planning Board may require revision of the previously approved final development plan to comply with current regulations and conditions. The Town Board shall render a decision, in writing, to the applicant and the other appropriate agencies within 45 days from the date of the application. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board.

CHAPTER 108, ARTICLE 8 shall be amended to read as follows:

§ 108-8. ARTICLE 8: SPECIAL USE PERMITS

§ 108-8.1. Authorization.

Pursuant to § 274-b of the Town Law and in accordance with the procedures, standards and conditions herein specified, the Town Board hereby designates itself as the reviewing agency authorized to approve and grant special use permits for the establishment of one or more of the uses for which a special use permit must be secured pursuant to this Chapter. Pursuant to the authority of § 10 of the Municipal Home Rule Law, this section supersedes § 274-b of the Town Law where inconsistent.

§ 108-8.2. Applicability.

A. Uses requiring a special use permit are listed in § [108-5.14](#), Schedule of Use Regulations.

B. Prior to the submission of any application for a building permit or certificate of occupancy for any use requiring a special use permit under this chapter, an application shall be made to the Zoning Administrator for a special use permit in the manner and form specified in Article 30 of this chapter, together with the fee set forth in the current fee schedule.

C. Any revision of an approved special use permit or any reconstruction, enlargement, extension, moving or structural alteration of an existing special use shall require approval and submission of a new application for approval.

D. All buildings, structures and uses that require a special use permit under this chapter must also obtain site plan approval pursuant to Article 9 of this chapter.

§ 108-8.3. Procedure.

A. Application. Any application for a special use permit shall be in the manner and form prescribed in Article 30, Enforcement, of this chapter.

B. SEQRA.

(1) The Town Board shall serve as the lead agency, unless a different lead agency is designated under the SEQRA regulations.

(2) An application for a special use permit shall not be deemed complete until the Town Board or another involved agency serving as lead agency shall have adopted a finding of no

significant adverse environmental impact (negative declaration) or until a DEIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

C. Public hearing. A public hearing shall be required for every special use permit. The public hearing and official notice shall comply with the requirements of this Chapter and §274-b of the Town Law, and may be combined with a public hearing held pursuant to SEQRA. The notice shall contain an agriculture data statement if required by § 283-a of the Town Law. The Town Board shall mail notice of said hearing to the applicant and to the owners of the properties within 150 feet of all property lines of the proposed special use permit at least 10 days before said hearing and shall give public notice of said hearing in the official newspaper of the Town at least five days prior to the date thereof.

D. Area variance. Where a proposed special use permit contains one or more features which do not comply with the regulations of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article 33 of this chapter without the necessity of a decision or determination by the Zoning Administrator.

(1) Such application shall be made part of the application for such special use permit.

(2) The fee for such application shall be in addition to that required for said special use permit.

§ 108-8.4. Standards; accessory apartments.

A. The Town Board may grant a special use permit, provided that it finds that all of the following conditions and standards have been met for each proposed use and/or structure:

(1) Will comply with the applicable requirements contained in Articles 4 and 5 of this chapter, will be consistent with the purposes of the district in which it is located and has been given due consideration by the Town Board.

(2) Will be consistent with the purposes of this chapter set forth in § [108-1.4](#).

(3) Will not result in excessive off-premises noise, dust, odors, solid waste or glare, or create any public or private nuisances.

(4) Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, condition, and any proposed improvements made to them by the applicant.

(5) Will be suitable for the proposed action considering the property's size, location, topography, vegetation, soils, natural habitat, hydrology, hydrogeology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

(6) Will be subject to such conditions on operation, design and layout of structures and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town.

B. In addition to the above, any proposed accessory apartment will comply with the following provisions:

- (1) The owner(s) of the one-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises;
- (2) The apartment shall be clearly subordinate to the one-family dwelling unit. The floor area devoted to the apartment shall be no more than 35% of the gross square feet of the existing one-family dwelling unit prior to the creation of the accessory apartment;
- (3) The number of bedrooms in the apartment shall be not more than two;
- (4) The floor area of the apartment shall be greater than 400 square feet;
- (5) An accessory apartment shall be considered in density calculations;
- (6) The apartment and one-family dwelling must have a safe and proper means of entrance, clearly marked for the purpose of fire safety and mail service;
- (7) All County Department of Health regulations shall be met;
- (8) No special use permit shall be granted in any case where the County Department of Health has determined that the water or sewage system serving the dwelling or dwellings in question is for any reason not capable of handling the additional demand that would be imposed upon it in the event the special use permit was issued thereunder;
- (9) Stairways leading to any floor or story above the first floor shall be located within the walls of the building. Any fire escapes, when required, shall be located on the rear wall in preference to either side wall. In no instance shall a fire escape be located on any wall fronting on a street;
- (10) The requirement for site plan approval for special permits shall not apply to special permits under this Subsection [B](#) unless the accessory apartment is proposed to be located in a detached structure;
- (11) All accessory structures which contain dwelling units must comply with the § [108-5.15](#), Schedule of Bulk Regulations; and
- (12) The certificate of occupancy for the accessory apartment shall clearly identify such dwelling unit and its floor area.

§ 108-8.5. Decision.

The Town Board may approve the application, approve it subject to modifications, or disapprove the application.

A. Decision. Any decision by the Town Board to grant or deny a special use permit shall include either a negative declaration of environmental significance or a written findings statement consistent with the requirements of SEQRA. In making its decision, the Town

Board shall be guided by the statement of policies, principles and guides set forth in the Greenway Connections. In addition, it shall contain a statement of its findings regarding the appropriateness of the use so authorized and the conditions required in the special use permit, or its reasons for denial. In granting any approval, the Town Board shall impose any conditions that may be necessary to ensure that the proposed use will be compatible with its surroundings.

B. Filing. Within five business days from the date of adoption of a resolution approving the special use permit, the Supervisor or other duly authorized member of the Town Board shall cause a copy of such resolution to be filed in the Office of the Town Clerk with an additional copy of such resolution delivered to the Zoning Administrator.

C. Conditions. The Town Board shall attach to the special use permit such conditions and restrictions as are deemed necessary. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town.

D. Expiration. A special use permit shall be deemed to authorize only the particular use or uses specified in such permit and shall expire if:

- (1) A certificate of occupancy is not issued within two years from the date of approval of such special use permit;
- (2) The certificate of occupancy is revoked for any reason;
- (3) The authorized use or uses shall cease for more than one year for any reason; or
- (4) The required improvements are not maintained and all conditions and standards complied with throughout the duration of the use.

E. Revocation. In accordance with the provisions of Article 32, a special use permit may be revoked.

ARTICLE 9 SITE PLAN APPROVAL

§108-9.1 shall be amended to read as follows:

§ 108-9.1. Authorization.

Pursuant to § 274-a of the Town Law, the Town Board shall review and approve, approve with modifications or disapprove site plans prepared to the specifications set forth herein showing the arrangement, layout and design of the proposed physical improvements necessary for the use of the land on said plan.

§108-9.2 (A) shall be amended to read as follows:

§ 108-9.2. Purpose and applicability.

A. Purpose. The purpose of this article is to establish a clear and expedient method for review of the elements that constitute the physical improvements necessary for those proposed uses of

land and structures which have been identified in this chapter as necessary for the purposes established in Article 1.

(1) Requirements applying to particular elements of a site plan are located in § [108-4.5](#), Site development standards.

(2) Standards for consideration by the Town Board in reviewing elements of a site plan are located in Article 5, District Regulations and Standards.

(3) Site development review shall be required only after a project has been granted a special use permit for which site plan approval is a condition or when the site development regulations for a permitted use require the Town Board's approval in regard to any optional site development elements that the applicant may wish to pursue. The particular elements, degree of documentation and parameters of discretion shall be established in the special use permit and the presubmission conference. All uses and the applicable scale and density shall be established as permitted prior to any review under this article. The dimensional and physical regulations and restrictions subject to approval by the Town Board shall be the only matters considered in site development review.

The first paragraph of **§108-9.2 (B)** shall be amended to read as follows:

B. Applicability. No building permit shall be issued for the construction of any physical improvement on any lot for which site plan approval is required under this chapter until the Town Board has approved, or approved with modifications, a site plan for such improvement. Site plan approval is required for:

§108-9.2 (D)(2)(e) shall be amended to read as follows:

(e) Any additional elements specified by the Town Board as a condition of a special use permit.

§108-9.2 (F) shall be amended to read as follows:

F. Phasing. If a site plan is proposed to be built in phases, all phases of the project shall be shown on a master plan for the project, which will be the proposed action subject to environmental assessment under SEQRA. All perimeter landscaping shall be included in phase one. Phases shall be entirely completed within two years from the issuance of the building permit, unless the Town Board approves a longer period. No new phase shall be commenced unless and until the preceding phases are completed, unless the Town Board waives such condition.

§108-9.3 shall be amended to read as follows:

§ 108-9.3. Procedure.

A. Application. Application for site plan approval or amendment to a previously approved site plan shall be made in the form and manner specified in Article 30, together with the fee set forth in the current fee schedule.

B. GML §239-m Referral. If a response from planning agency under GML §239-m is not included in the documentation and has not been received within the requisite thirty-day period, the Town Board may act on the application without such report.

C. SEQRA.

(1) An application for a site plan approval shall not be deemed complete until the lead agency has adopted a finding of no significant adverse environmental impact (negative declaration) or until a DEIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

D. Presubmission conference.

(1) The purpose of any presubmission conference shall be:

- (a) To fully identify the physical and dimensional requirements of the proposed use;
- (b) To complete Part 2 of the full environmental assessment form (EAF) for any Type 1 application; and
- (c) To establish those elements of § [108-9.4](#) that shall be required for site plan review.

(2) Any presubmission conference shall be held during a meeting of the Town Board and attended by the applicant, his professional representative and the Zoning Administrator.

(3) Within six months following a Town Board presubmission conference, the applicant shall prepare an administratively complete application for site plan review and submit such application to the Zoning Administrator. If such application is not submitted within this six-month period, an additional presubmission conference shall be arranged.

E. Site plan review.

(1) The Town Board shall hold a public hearing on any site plan review, unless it waives such hearing.

(a) Such hearing shall take place within 62 days from the date that the Town Board receives a complete application for site plan review.

(b) The Town Board shall mail notice of said hearing to the applicant and to the owners of the properties within 150 feet of all property lines of the proposed site plan at least 10 days before said hearing and shall give public notice of said hearing in the official newspaper of the Town at least five days prior to the date thereof.

[1] Such public hearing may include any SEQRA public hearing; and

[2] Such notice shall not be required for the continuation of any such public hearing.

(c) Such notice shall contain an agricultural data statement, if required by § 283-a of the Town Law.

(d) At least 10 days before such hearing, the Town Board shall mail notices thereof to the Dutchess County Planning Department as required by § 239-m of the General Municipal Law.

(2) No decision shall be made prior to full compliance with the SEQRA regulations as codified in 6 NYCRR Part 617.

(3) The Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions shall be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town.

(a) The Town Board may require all approvals from any involved local, county, state or federal agency to be submitted in writing to the Town Board before site plan approval is granted.

(b) The acceptance of a letter of credit or other equivalent security as an alternative to the installation of infrastructure and improvements prior to approval by the Town Board shall be tied to those elements and portions of elements identified in the standards contained in § [108-9.5](#).

(4) Within five business days after a decision is rendered, the decision shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.

(a) The decision of the Town Board shall be recorded in accordance with the standard forms adopted by the Town Board and shall fully set forth the circumstances of the case.

(b) A complete record of the findings on which the decision is based, consistent with the Town's record management program, shall be filed with the Town Clerk.

(c) No site plan approval shall be considered final until it is signed by an authorized officer of the Board. If the site plan is conditionally approved, the Town Board shall empower a duly authorized officer to sign the plan, subject to completion of such requirements as may be stated in the resolution conditionally approving the plan and authorizing such signature. Upon completion of such requirements, the final site plan shall be signed by the duly authorized officer of the Town Board. Conditional approval of the final site plan shall expire 180 days after the date of the resolution granting conditional approval, unless such requirements have been certified as completed. The Town Board may extend the time in which a conditionally approved site plan must be submitted for signature if, in its opinion, such extension is warranted by the particular circumstances thereof, for not to exceed two additional periods of 90 days each.

F. Reservation of parkland. Before the Town Board may approve any site plan containing residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.

(1) The Town Board shall not require land for park, playground or other recreational purposes until it has made a finding that a proper case exists for requiring such a park or

parks. Such a finding shall include an evaluation of the present and future needs for park and recreational facilities in the Town based on the projected population growth to which the particular site plan will contribute. Such findings shall include supporting documentation from the Recreation Commission and shall provide an individualized determination that such required dedication or reservation is related both in nature and extent to the impact of the proposed site plan.

(2) In the event the Town Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Town Board may require a sum of money in lieu thereof, in the amount established in the current schedule of fees adopted from time to time by the Town Board. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan that 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 Town Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in the Town of Hyde Park Recreation Trust Fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property. In the event the Town Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Town Board may require a sum of money in lieu thereof, in the amount established in the current schedule of fees. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan that 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 Town Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in the Town of Hyde Park Recreation Trust Fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

(3) Notwithstanding the foregoing provisions, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to § 276 of the Town Law, the Town Board shall credit the applicant with any land set aside or money donated in lieu thereof under such subdivision approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

G. Area variance. Where a proposed site plan contains one or more features that do not comply with this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article 33 of this chapter without the necessity of a decision of the Zoning Administrator. In reviewing such application, the Town Board shall provide a written recommendation concerning the proposed variance to the Zoning Board of Appeals.

- (1) Such application shall be made part of the application for such site plan approval.
- (2) The fee for such application shall be in addition to that required for said site plan approval.

H. Financial security. The Town Board shall require a letter of credit or other equivalent security sufficient to cover the cost of installation of the required infrastructure and improvements as estimated by the Town Board on the recommendation of the Town Engineer.

§108-9.4 (C) shall be amended to read as follows:

C. Exceptions.

- (1) For minor site development plans or in other appropriate circumstances as determined by the Town Board, the Town Board may waive the provision of any items of information listed in this section.
- (2) In the case of a use conversion which does not require additional construction or site modifications, or in the case of minor changes in existing conditions requiring a building permit, the Town Board may determine that the site plan procedures outlined in this article are not applicable and may be waived. This determination shall be made by the Town Board after receipt of a recommendation from the Zoning Administrator.
- (3) At the request of the Town Board, any other pertinent information as may be reasonably required or necessary to determine and provide for the proper enforcement of specific provisions of this chapter shall also be provided.

§108-9.5 shall be amended to read as follows:

§ 108-9.5. Standards.

A. General. In reviewing any application for site plan approval, the Town Board shall consider the following standards:

- (1) The standards in the bulk and site development regulations contained in Article 4 of this chapter;
- (2) The standards contained in Article 5 of this chapter for the particular district; and
- (3) The applicable regulations of other chapters of this Code as they may modify or otherwise limit Town Board discretion under this chapter.

B. Town Board review and approval of any site plan shall ensure that such site plan is in conformance with all of the applicable regulations and standards of this chapter.

§108-9.6 shall be amended to read as follows:

§ 108-9.6. Revocation and expiration of site plan approval.

A. An approved site plan shall be void and the building permits, if any, shall be revoked if substantial construction is not started within two years and the entire project or approved phase is not completed within three years of signing of the site plan or site plan amendment by an authorized officer of the Town Board.

B. The Town Board may, at its discretion, grant an extension to an approved site plan. The applicant shall submit a written request 30 days prior to the site plan date of expiration, requesting an extension for a specified time and the reason therefor. In granting the extension, the Town Board may require revision of the previously approved site plan to comply with current regulations and conditions.

C. The Town Board shall render a decision, in writing, to the applicant and the other appropriate agencies within 45 days of the application provided, however, that the time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board.

D. Any previously approved site plan, including a conditionally approved site plan, whether or not the conditions have been satisfied, shall be completed within three years of the date of adoption of this chapter (September 8, 2005) or it shall be subject to the requirements of this chapter.

ARTICLE 20: HOME OCCUPATIONS

§108-20.2(B) shall be amended to read as follows:

B. A home occupation shall be permitted in all districts if it meets all of the following conditions: it does not encourage any customers or clients to enter or leave the premises; it is conducted entirely by members of the family occupying the dwelling unit; it has no exterior display, exterior storage of materials or other exterior evidence of any home occupation; it requires no exterior alteration, addition or change to the structure that would require a building permit in order to accommodate such use within such structure or accessory structure; and it does not occupy more than 30% of the total gross square feet of the residential structure. Such a home occupation does not require review by the Town Board nor the Zoning Board of Appeals. A certificate of occupancy is not required. Such a use is deemed to be a "no-impact home occupation."

ARTICLE 22: PUBLIC UTILITY FACILITIES

§108-22.4 (B) shall be amended to read as follows:

B. In granting a special use permit for a public utility facility, the Town Board shall impose such reasonable and appropriate conditions, restrictions and safeguards as it may deem necessary or desirable to promote the health, safety, morals and general welfare of the Town.

ARTICLE 23: RESIDENTIAL CARE FACILITIES

§108-23.5 shall be amended to read as follows:

§ 108-23.5. Required findings.

In making its determination upon a special use permit for a residential care facility, the Town Board shall, in addition to making the findings required by Article 8, make the following specific findings:

- A. That the proposed facility, given its unique nature, will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, parking, utility facilities, and other matters affecting public health, safety, and general welfare.
- B. That the proposed facility will be provided with or have ready access to facilities and services necessary and appropriate to the needs of its residents for active and passive recreation, medical care, education, cultural and religious activities, and public transportation.
- C. That the proposed facility will not generate a level of traffic which would be burdensome to the neighborhood, considering the number of visitors its residents may expect, truck delivery and loading requirements, and the availability and nature of public or private transportation.
- D. That the proposed facility will not result in an undue concentration of residential care facilities in the Town of Hyde Park or in the neighborhood of the proposed facility.
- E. That the decision made by the Town Board represents a reasonable accommodation to the needs of persons protected under the Federal Fair Housing Act, if applicable.

ARTICLE 24: SIGNS

§108-24.2(C)(2) shall be amended to read as follows:

(2) Commercial signs within shopping centers.

(a) One freestanding sign, not to exceed 60 square feet in sign area per face and seven feet in height measured from finished grade, is permitted per shopping center. Decorative elements, not including text, may exist above seven feet but shall not exceed eight feet in height. Such sign may include panels for individual businesses within the shopping center and shall have no more than two faces. At the discretion of the Town Board, one additional freestanding sign may be permitted, provided there is an additional entry point and provided that such sign is located at the additional entry point and not less than 150 feet from the other entry. The second sign shall be limited to 40 square feet in sign area per face and seven feet in height. No pricing information shall be displayed on the freestanding sign.

(b) In addition, each separate business within the center with a separate external entry may erect no more than two wall signs. Such signs shall be restricted to the name and logo of the business, information lines (excluding pricing) and/or pictograph indicating the nature of the business. The size of such signs shall be no more than one square foot for each lineal foot of the individual store front occupied by such business, but in no case shall the total area of such signs exceed 100 square feet for each such business.

(c) One sign, not exceeding two square feet in area per face, may be hung under the walkway canopy to identify each store entrance. Such sign shall be hung perpendicular to the storefront and shall not be placed on the outer edge of the canopy.

(d) At the discretion of the Town Board, one single-faced, free-standing sign for a fueling facility, including gasoline prices, is permitted per shopping center, compatible in all design elements with the directory sign and not exceeding 10 square feet of sign area, five feet in height measured from finished grade, and eight inches in height or width of any letter, graphic, symbol or number.

§108-24.2(C)(3)(c)[2] shall be amended to read as follows:

[2] Such display signs must receive a permit pursuant to § [108-24.3](#). Regardless of the location of the sign, a recommendation from the Town Board shall be required.

§108-24.2(D)(2) shall be amended to read as follows:

(2) All illuminating devices for signs, displays or display areas shall employ only lights emitting a light of constant intensity and focused down on the sign, display or display areas or be focused on the surface behind the letters to create a backlit, silhouetted effect of a single color. No illuminating device shall include any flashing, intermittent, rotating or moving light, excluding time-and-temperature signs and those advertising gasoline prices. Time-and-temperature and gasoline price signs must have a steady illumination of a constant single color. No illuminating device shall produce a luminance greater than 100 footcandles (100 lumens per square foot) when measured at the face of the sign. At the Town Board's discretion, in individual cases where it determines a more appropriate scheme of illumination would be ground-lit, the source of the illumination must be completely shielded so that no portion of the light source is visible from a public or private path or roadway, year-round.

§108-24.2(F)(2) shall be amended to read as follows:

(2) The size and graphic content of any sign shall be appropriate for its intended audience. Signs that are meant to attract pedestrian interest shall be smaller than those meant to attract the interest of persons traveling in vehicles with local destinations, which in turn shall be smaller than those meant to address persons traveling in vehicles comprising through traffic.

(a) The maximum size of any symbol or graphic shall be 10 inches in any dimension. The Town Board may in its discretion grant an additional inch in dimension for every 20 feet a wall sign for a business or structure is set back from its primary access roadway to a maximum of 24 inches, if it finds that the additional size is necessary or appropriate due to such circumstances as the sign's distance from the road, the design speed of the road or the size of the building on which the sign is placed; or that the symbol or graphic is of special aesthetic merit.

(b) The maximum height of any letter shall be 10 inches. The Town Board may in its discretion grant an additional inch in dimension for every 20 feet a wall sign for a

business or structure is set back from its primary access roadway to a maximum of 24 inches, if it finds that the additional size is necessary or appropriate due to such circumstances as the sign's distance from the road, the design speed of the road or the size of the building on which the sign is placed.

§108-24.3(A)(4)(d) shall be amended to read as follows:

(d) If the sign is visible from the Route 9, Route 9G, or the Hudson River, or if the applicant is seeking an increase in letter or graphic size under § [108-24.2F\(2\)](#), and the sign complies in all other respects with this chapter, the Zoning Administrator shall forward the completed sign application to the Town Board for its recommendation. The Town Board shall act upon this completed application within 45 days after receiving it from the Zoning Administrator. If the Town Board recommends approval, and grants the requested increases in letter or graphic size, if any, the Zoning Administrator shall issue the sign permit with any conditions recommended by the Town Board within 10 business days of the determination by the Town Board. If the Town Board recommends disapproval, the Zoning Administrator shall so advise the applicant in writing.

§108-24.4(B) shall be amended to read as follows:

B. No illumination shall transmit through or from the face of a sign or through or from its letters and graphics, and no sign shall contain flashing, intermittent, rotating, or moving lights, except that one nonflashing neon, LED or fiber optics sign not exceeding three square feet may be allowed inside the window of a business establishment. Period-style lighting in or on a part of a sign, including neon, may be permitted at the discretion of the Town Board by special use permit, where it determines that such design elements complement or are essential to the architecture of the building or the theme of the proposed business.

§108-24.7(E) shall be amended to read as follows:

E. Special use permit. Applicants with prior nonconforming signs may request a special permit from the Town Board to continue their use beyond the ten-year time limit. In considering such requests, the Town Board shall determine whether removal of said signs would negatively impact the historic or scenic character of the community. Once granted, any such special use permit will automatically expire if the use, business or business name changes or ceases for more than six months.

ARTICLE 25: SCRAP YARDS

§108-25.1 shall be amended to read as follows:

§ 108-25.1. Application for approval.

Application for permission to operate a scrap yard in the Town must be made to the Zoning Administrator as provided in Article 30 of this chapter. A scrap yard use requires a special use permit pursuant to Article 8 of this chapter. If the applicant is granted a special use permit, the applicant must obtain site plan approval from the Town Board and a scrap yard license from the Town Clerk in order to obtain and retain a certificate of occupancy for a scrap yard use.

§108-25.2 shall be amended to read as follows:

§ 108-25.2. Location.

Notwithstanding the fact that scrap yards are a potential hazard in any district in the Town, in the course of the special use permit process the Town Board will be addressing the question of possible location if the scrap yard applicant can show that the scrap yard proposal meets the standards of § [108-8](#).

§108-25.3(B) shall be amended to read as follows:

B. Issuance of license. Before the Town Clerk may issue a scrap yard license, the applicant must provide the Clerk with a valid special use permit issued by the Town Board for the subject scrap yard use. In addition, before issuing the license, the Clerk shall have received from the Zoning Administrator a report indicating that the applicant has filed a complete application in accordance with the requirements of this article. Upon receipt of this information and payment of the required fee set forth in the current fee schedule adopted by the Town Board, the Town Clerk shall issue the license, which shall be valid for one year, subject to annual renewal. Such license shall be posted prominently in the licensee's scrap yard and made available for inspection upon request by the Zoning Administrator.

§108-25.4(C) shall be amended to read as follows:

C. Screening. A scrap yard shall be fully enclosed and completely screened from adjoining parcels and all public ways with fencing or a combination of said fencing and evergreen landscaping approved by the Town Board. A scrap yard shall also provide a setback around the entire perimeter of the required screening that is no less than 50 feet in depth. This setback shall be infilled with a vegetative cover.

§108-25.4(E) shall be amended to read as follows:

E. Inspection. The Zoning Administrator, Building Inspector, Town Engineer, Town Board and any other official of the Town or representative of the Town Board shall be permitted access to the scrap yard at all reasonable times to inspect the same for compliance with the provisions of this chapter.

ARTICLE 26: MANUFACTURED HOMES

§108-26.2(B)(3) shall be amended to read as follows:

(3) Before a replacement manufactured home is placed on a different lot or location within an existing park, site plan approval by the Town Board is required.

§108-26.3(A)(8) shall be amended to read as follows:

(8) Additional information as may be reasonably required by the Town Board.

§108-26.3(B)(2) shall be amended to read as follows:

(2) No manufactured home lot or office or service building shall be closer to the street line than 150 feet or closer to other property lines than 50 feet. Margins along the side and rear property line of the manufactured home park shall be planted with at least two rows of staggered, deciduous and/or evergreen trees spaced not more than 20 feet apart. The minimum height of planting must be three feet. Additional landscaping may be required at the discretion of the Town Board during site plan review.

§108-26.3(C)(3)(c) shall be amended to read as follows:

(c) Central refuse receptacles may be required by the Town Board.

ARTICLE 27: USED CAR LOTS

§108-27.1 (A), (B) & (C) shall be amended to read as follows:

§ 108-27.1. Regulations.

The following provisions apply to used car lots:

A. All used car dealers are required to obtain site plan approval for the operation of a used car lot, whether or not the dealer is licensed by the State of New York. The application for site plan approval shall be submitted to the Zoning Administrator, who shall review the application to determine if it is complete. The application shall satisfy the requirements for site plan approval applications set forth in Article 9. Upon determining that the application is complete, the Zoning Administrator shall forward the application to the Town Board.

B. The Town Board shall review the site plan pursuant to Article 9. The Town Board shall serve as lead agency for purposes of SEQRA review and shall conduct a coordinated review with other involved agencies for purposes of SEQRA compliance. The Town Board may approve, approve with conditions, or deny the site plan.

C. Upon approval of the Town Board of the site plan, the dealer may apply to the Town for a used car dealer license. All license applications are made through the Zoning Administrator and are issued by the Town Clerk. Following approval by the Zoning Administrator, all license fees and renewals shall be paid to the Town Clerk, who shall issue the license or renewal. The only determination to be made by the Zoning Administrator in reviewing the license application is whether the dealer is in compliance with the provisions of the site plan approval.

ARTICLE 30: ENFORCEMENT

§108-30.7(A)(3)(a) shall be amended to read as follows:

(a) The Planning Board shall provide the Town Board with a written recommendation within 30 days from the date of such referral.

§108-30.7(C)(1) shall be amended to read as follows:

(1) Within five days of a determination that the application is complete, the Zoning Administrator shall forward the application to the Town Board.

§108-30.7(D)(1)(c) shall be amended to read as follows:

(c) Within 30 days of the date of such request, the Zoning Administrator, in consultation with the Town Board, shall establish a workshop meeting or alternate time, date and place for said conference and so advise the applicant.

(2) Site development review:

(a) Date of filing. All applications for site development review shall be filed with the Zoning Administrator.

[1] The Zoning Administrator shall examine each application for administrative completeness and, upon a finding that such application is administratively complete, the Zoning Administrator shall sign and date the same. Such date shall be deemed to be the date of filing for site plan approval.

§108-30.7(D)(2)(a)[2] shall be amended to read as follows:

[2] Upon signing said application, the Zoning Administrator shall forward such administratively complete application to the Town Board.

[a] If the date of filing is 15 or more days prior to the next scheduled meeting of the Town Board, the application shall be placed on the agenda for said meeting.

[b] If the date of filing is less than 15 days prior to the next scheduled meeting of the Town Board, it shall be placed on the agenda for the next meeting following said meeting.

§108-30.7(D)(2)(b)[1][b] shall be amended to read as follows:

[b] One copy of each document issued by the Town Board as a result of the presubmission conference;

§108-30.7(D)(2)(b)[2] shall be amended to read as follows:

[2] Upon notification that the Zoning Administrator has signed and dated the application for site development review as complete, the applicant shall deliver seven additional copies of such complete application to the Town Board office for use during its review.

§108-30.7(H) shall be amended to read as follows:

H. For the purpose of maintaining accurate and current data for its records and for professional review by its consultants, and to evaluate such data in the context of a geographic information system, the Town Board may, in its discretion, require that plans, maps and other data required for planned unit development, special use permit and site plan applications under this chapter, and all updates and revisions to such plans, maps and data, be submitted in an electronic format in addition to the otherwise required paper submissions.

(1) The Town Board may waive the electronic format submission requirement for particular applications or types of applications where the electronic data would not be useful to the Board or its consultants in their review of the application.

(2) The Town Board may from time to time specify the specific format and type of electronic submission it requires for each type of application.

(3) The Town Board may waive the electronic format submission requirement upon a showing upon competent evidence that the requirement will cause the applicant substantial economic hardship.

ARTICLE 32: CERTIFICATES OF OCCUPANCY

§108-32.2(B) shall be amended to read as follows:

B. As a condition of the grant of a temporary certificate of occupancy, the Town Board, upon recommendation from the Zoning Administrator, may require the owner to provide a letter of credit or other equivalent security to the Town sufficient to cover the cost of the completion of the project, as estimated by the Town Board or a Town department designated by the Town Board to make such estimate.

(1) The owner shall provide at least one bona fide proposal from a contractor acceptable to the Town Board for each element of infrastructure or improvement that the owner proposes to construct or complete subsequent to receiving a temporary certificate of occupancy.

(2) Such proposal shall include the cost for constructing or installing that portion of the improvement and a date by which such construction or installation is to be completed and any other special conditions on which such proposal may be contingent.

(3) Such proposal shall be considered by the Town Board in the preparation of such estimate.

(4) Such security shall be provided to the Town pursuant to the provisions of § [96-16](#).

ARTICLE 34: AMENDMENTS

§108-34.1(C)(1) shall be amended to read as follows:

(1) The date of the Town Board resolution to refer such proposed amendment or change to the Planning Board shall be deemed to be the initiation of proceedings. Failure on the part

of the Planning Board to report its recommendation to the Town Board within 30 days after initiation of proceedings therefor shall be deemed approval thereof, unless such proceedings have been previously terminated by the Town Board or the petitioner.

§108-34.1(E) shall be amended to read as follows:

E. Decision. No amendment of this chapter, of whatever nature, that has not been approved by the Planning Board shall be adopted except by at least a super-majority vote (four Town Board members) of the Town Board, provided that failure on the part of the Planning Board to report to the Town Board its recommendation on any proposed amendment initiated by proposed resolution or amendment of the Town Board within 30 days after initiation of proceedings therefor shall be deemed to be approval thereof, unless such proceedings have heretofore been terminated.

ARTICLE 36: EXPENSES, ESCROW DEPOSITS AND RECREATION FEES

§108-36.1 shall be amended to read as follows:

§ 108-36.1. SEQRA expenses.

A. SEQRA expenses. When an action subject to SEQRA involves an application before the Town Board, the Planning Board or the Zoning Board of Appeals, the reviewing board may, if such reviewing board is the lead agency, charge a fee to the applicant to recover the actual cost to the Town of preparing and reviewing the EAF, EIS, the SEQRA findings, notices and all other requirements that are incidental to the SEQRA review process. Such fees may be imposed on the applicant by the lead agency and shall not exceed the amounts allowable under 6 NYCRR 617.13. Such fees may be imposed on an applicant for costs incurred by the Town for professional review services. For the purpose of this section, professional review services shall be defined as but not limited to those services provided by engineers, lawyers, architects, landscape designers, certified surveyors, property appraisers, planners and related professionals. Said monies shall be deposited in escrow and governed pursuant to the provisions of § [108-36.3](#) of this chapter.

B. Negative declaration. In all cases where the Town Board, the Planning Board or the Zoning Board of Appeals approves a negative declaration in connection with an action governed by SEQRA, the actual cost of professional review services provided to the reviewing board between the time of receipt of the application and the final determination on the requested action by the reviewing board may be imposed on the applicant in the same manner as prescribed in Subsection [A](#) herein.

§108-36.3(M)(2) shall be amended to read as follows:

(2) In the event of a site plan approved by the Town Board pursuant to § 274-a of the Town Law of New York State, the Town Supervisor shall determine if all outstanding professional review fees have been paid by the applicant or the Town Supervisor has entered into a written agreement with the applicant extending the time of payment of such fees prior to affixing his signature to the site plan. All such outstanding consultant fees billed to the

applicant during the application process shall be paid in full to the Town prior to the Town Supervisor or his designee affixing his signature to the site plan.

§108-36.4 shall be amended to read as follows:

§ 108-36.4. Recreation fees.

A. It is the express intention of the Town Board that this chapter supersede Town Law § 274-a by establishing that the Town Board shall require that recreation areas be provided to the Town in connection with the approval by the Town Board of any site plan application for the construction or conversion of multifamily dwelling units and manufactured home parks. It is the further intention and purpose of the Town Board to supersede Town Law § 274-a by establishing that if, in the judgment of the Town Board, satisfactory and adequate recreation areas cannot be provided, the applicant shall be required to pay a fee set forth in the current schedule of fees adopted by the Town Board to the Town in lieu of providing such recreation areas.

B. Before approval by the Town Board of a site plan showing two or more buildings containing multiple dwelling units or a manufactured home park as defined in this chapter, such site plan shall also show, in proper cases or when required by the Town Board, a park or parks suitably located for playground or other recreational purposes. If the Town Board determines that a suitable park or parks of adequate size cannot be properly located on any such site plan or is otherwise not practical, the Board may require as a condition of approval of any such site plan a payment to the Town of a sum established in the current schedule of fees adopted by the Town Board, which sum shall be paid by the applicant to the Town Recreation Trust Fund prior to the Town Board's approval of such site plan, which sum shall constitute a trust fund to be used by the Town exclusively for neighborhood park, playground or recreation purposes, including the acquisition of property.

Section-IV: PLANNING CLASSES FOR TOWN BOARD MEMBERS

- A. Each member of the Town Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this Local Law. Such training may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
- B. The training required by this subdivision may be waived or modified by resolution of the town board when, in the judgment of the town board, it is in the best interest of the town to do so.
- C. The cost of such training shall be a Town expense.

- D. No decision of the Town Board shall be voided or declared invalid because of a failure to comply with this subdivision.

Section-V: TRANSFER OF PENDING APPLICATIONS

- A. Upon the Effective Date of this Local Law, all pending Site Plan Applications and Special Permit Applications shall be transferred to the Town Board, except those applications which have been granted a resolution of approval from the Planning Board.
- B. Upon the Effective Date of the Local Law, the Secretary to the Planning Board shall prepare a report of all applications for site plan approval and special permit uses and deliver a copy of said report to the Town Board members.
- C. The Town Board is authorized to designate such employees of the Town that are necessary to assist with the processing of applications for site plan and special permit approval.

Section-VI: Separability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Hyde Park that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section-VII: Effective Date:

This Local Law shall become effective immediately upon filing with the Secretary of State as provided by law.