

Village of Menands, New York

LOCAL LAW #1 OF 2023 DRAFT CHAPTER 16g ZONING LAW January 17, 2023



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Prepared by:



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ARTICLE 1 INTRODUCTORY PROVISIONS

§ 169-1 Title, Repeal of Prior Zoning Law

- A. This Zoning Law shall be known and may be cited as the "Zoning Law of the Village of Menands, New York." For convenience, it is also referred to as the "zoning law."
- B. This Local Law repeals and replaces the Village of Menands "Zoning Law" as adopted by Local Law 1 of 1976 on March 1, 1976, and all subsequent amendments.

§ 169-2 Enacting Clause

Pursuant to the authority conferred by Article 2 of Municipal Home Rule Law and Article 7 of the Village Law of the State of New York, the Village Board of the Village of Menands hereby adopts and enacts this Local Law. This Local Law shall take effect immediately upon filing as required by law.

§ 169-3 Scope

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures and the use of land in the Village of Menands in Albany County, divides the Village zoning districts for said purposes and provides for the administration and enforcement provisions herein contained and fixes penalties for the violation thereof.

§ 169-4 Purpose

- A. The regulations embodied in this chapter are adopted in order to promote public health, safety, and general welfare, and for the following purposes:
- B. Promote orderly development. To promote and effectuate the orderly physical development of the Village of Menands in accordance with the Comprehensive Plan, as amended, and other relevant studies, and findings.
- C. Facilitate desirable forms of development. To promote the vision of a strong sense of place with a recognizable Village center, attractive residential and mixed-use neighborhoods, and a variety of services and amenities for residents in a walkable, village setting.
- D. Meet current and future housing demands. To make provisions for a growing residential population, providing housing options serving a range of income levels while preserving the quality of existing stable residential districts.
- E. Promote commerce and economic reinvestment. To protect, enhance, and promote existing and new commercial, industrial, and mixed uses, and continuous economic reinvestment in the Village.

- F. Promote complete streets. To ensure new and updated public and private projects are planned, designed, maintained, and operated to enable safe, comfortable, and convenient travel to the greatest extent possible for users of all abilities including pedestrians, bicyclists, motorists, and transit riders.
- G. Conserve and enhance property values. To encourage the most appropriate uses of land in the community in order to conserve and enhance property values.
- H. Promote energy conservation, low-impact development, and environmentally sensitive development.
- I. Preserve historic and natural features. To preserve historic and natural features and accommodate new development in such a way as to maintain and enhance the desirable aesthetics of the Village.
- J. Elimination of nonconforming uses. To gradually eliminate nonconforming uses.

§ 169-5 Interpretation; Conflict with Other Laws

- A. For purposes of interpretation and application, these regulations shall be deemed to be the minimum requirements necessary for the purposes enumerated above. Except where expressly provided otherwise, it is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any rule, regulation or ordinance of the Village relating to the use of land or building; nor is it intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that where this chapter imposes a greater restriction upon the use of land or buildings that is imposed or required by any other statute, ordinance, rule or regulation or by any easement, covenant or agreement, the provisions of this chapter shall control. In the event of conflict in the terminology of any section or part thereof of this chapter, the more restrictive provisions shall prevail.
- B. In the event of a conflict between diagrams or illustrations and the written text of this chapter, the written text shall apply.

§ 169-6 Severability

Should any provision of this chapter be declared illegal or unconstitutional by a court of competent jurisdiction to the extent that the other provisions of this chapter can be implemented without such illegal or unconstitutional provision, such other provisions shall remain in effect.

§ 169-7 How to Use This Zoning Law

- A. Understanding Zoning is important for anyone looking to sell, purchase, or develop land in Menands. Most property owners can understand the rights and restrictions related to a parcel of land by utilizing this document and the Zoning Map to find information about a specific property.

- (1) The first step in the process should be to find the parcel on the Zoning Map (online or in person at the Office of the Building Inspector).
- (2) Once you have found the property, you can look up the Zoning District – see **§ 169-8** and **§ 169-9**. Most properties in Menands will have only one applicable Zoning District.
- (3) The next step is to check the allowable uses, dimensional and bulk requirements to understand which uses are permitted as of right, by site plan, or those requiring a special use permit – see **Articles 2,3, and 4**.
- (4) When looking up the parcel, be sure to check whether your property is within the Broadway Form-Based Code Districts: BBD, T4 or T5. These districts have additional requirements listed in **§ 169-23** of this chapter.
- (5) Regardless of the applicable zoning districts, certain allowable uses may be subject to supplemental regulations – see **Article: 9 Supplemental Regulations**.
- (6) This explanation is meant to be a high-level description of how to use and understand the Village Zoning Code. If you are intending to purchase property or begin construction, it is best to contact the Village Building Department to discuss your project with the Code Enforcement Officer before you start.

§ 169-8 Enumeration of Zoning Districts

- A. To fulfil the purposes of this chapter, the Village of Menands is hereby divided into the following zoning districts:

Residential Districts	
R-60	Open Space Residential
R-20	Rural Residential
R1	Single Family Residential
R2	Two-Family Residential
R2A	Townhouse Residential
R3	High Density Residential
R4	Multi-Family Residential
Broadway Corridor Form Based Districts	
BBD	Broadway Business District
T4	Neighborhood District
T5	Village Center District
Business & Industrial Districts	
HI	Heavy Industrial
LI	Light Industrial
Open Space and Land Conservation Districts	
C	Cemetery
LC	Land Conservation

§ 169-9 Official Zoning Map

- A. The locations and boundaries of the zoning districts established in **§ 169-8** are shown on the map entitled "Village of Menands, New York, Zoning Map." The Zoning Map is located in **Appendix 1**. For convenience, the Official Zoning Map of the Village of Menands may also be referred to as the "Zoning Map."
- B. The Zoning Map, together with everything shown thereon and all amendments thereto, is hereby adopted by reference and accompanies and is declared to be an appurtenant part of this chapter. Said Zoning Map indicating the latest amendments shall be kept up to date in the office of the Village Clerk and Building Department for the use and benefit of the general public.

§ 169-10 Interpretation of District Boundaries

- A. Unless specifically shown to the contrary on the Zoning Map, the boundary lines of districts shall follow and run parallel to either property lines, municipal boundary lines, the center lines of streets, right-of-way lines, highway or public utility easements, or the centerline of creeks or streams.
- B. Distances not specifically indicated on the Zoning Map shall be determined using the scale shown on the Zoning Map.
- C. If the district classification of any land is in question, it shall be deemed to be in the more restrictive of the two districts or in the district in which higher standards are imposed.
- D. Questions concerning the exact location of the district boundary lines shall be resolved by the Code Enforcement Officer.

§ 169-11 Conformance Required – Zoning Verification

- A. The general zoning regulations and zoning districts as herein set forth are approved and established.
- B. No building shall be erected, moved, altered, rebuilt, or enlarged, nor shall any land or building be used, designed, or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which such building or land is located.
- C. The Code Enforcement Officer or their designee is hereby exclusively authorized and directed to make the initial determination as to whether a proposal delineated in a particular application submitted pursuant to this chapter is in compliance with the requirements of said chapter.
- D. No application of any nature required to be submitted pursuant to the provisions of this chapter shall be granted by any Village official without first obtaining a written verification from the Code Enforcement Officer that the proposed use described in said application is permitted in the zoning district where it is proposed to be located or

developed and that the proposal otherwise appears to be in compliance with the provisions of this chapter.

- E. An application for zoning verification shall include but not be limited to the following:
- (1) A description of the permits and/or approvals being applied for and a narrative description of the proposed use and project.
 - (2) A proposed plot plan (sketch) with all buildings and structures (both existing and proposed), showing dimensions of all buildings and structures and the property and building setbacks, proposed building heights, road frontages on public highways and paper streets, zoning district boundaries within 500 feet of the subject property and existing and proposed property lines.
 - (3) Street address of the proposed project and the Tax Map section, block, and lot information for the subject property.
 - (4) Such other information that the Code Enforcement Officer may deem reasonably necessary to make the determination.
- F. After the Code Enforcement Officer has determined that a proposed use is permitted within the subject zoning district, said determination shall be transmitted to the appropriate Village officials, who may then further process the subject application(s). If, as the project progresses through the approval process, compliance with any other requirement of this chapter is identified as an issue(s), the Code Enforcement Officer shall also determine such issue(s) of compliance with provisions of this chapter, and such issues must be resolved before the permit(s) being applied for may be granted by any Village official.

§ 169-12 Expenses

In addition to any fees required under any section of the Village Code, the Village Board and the Zoning Board of Appeals shall require each applicant for any review, permit or approval of any planned development district, special use permit, site plan, subdivision review or a variance, to deposit an amount established by the respective Board as its estimate to pay for the fees and/or costs of any engineer, planner, consultant, or attorney designated by the Board to review such application or to perform inspections during construction. The fees and/or costs charged by such engineer, planner, consultant, or attorney in connection with such review or inspections will be charged against the sum deposited. Any portion of the review amount remaining shall be returned to the applicant within 45 days of final action on the application, and any portion of the inspection amount remaining shall be returned to the applicant within 45 days after issuance of the certificate of occupancy. The amount of the fees and/or costs shall be established by the Board to which the applicant seeks approval.

ARTICLE 2 RESIDENTIAL DISTRICTS**§ 169-13 Open Space Residential (R-60)**

- A. District purpose: The Rural Residential District (R-60) contains the Village's lowest-density residential neighborhood with a minimum lot size of 60,000 square feet. This District borders the Sage Estates Preserve where the preservation of open space and rural character is highly important.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structures
 - (2) Dwelling, Single-Family
 - (3) Electric Vehicle Charging Stations. Manufactured Home, Individual
 - (4) Home Occupation-1
 - (5) Minor Public Facility
 - (6) Private Swimming Pools
 - (7) Tier 1 Solar Energy System – Roof Mounted and Building Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Accessory Parking-1
 - (2) Community Residential Care Facility for the Disabled
 - (3) Day Care Home – Adult and/or Child
 - (4) Tier 1 Solar Energy System – Ground Mounted
- D. Special Uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) In-Law Apartment
- E. Maximum residential density: 1 dwelling unit per 60,000 square feet
- F. Minimum lot dimensions
 - (1) Minimum lot size: 60,000 square feet.
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum lot depth: 120 feet.
 - (4) Maximum lot coverage: 20%.
- G. Minimum yard setback requirements.

- (1) Front yard setback: 40 feet.
- (2) Rear yard setback: 25 feet.
- (3) Side yard setback: 20 feet.
- H. Building height.
 - (1) Number of stories: 2-1/2
 - (2) Maximum height: 35 feet.

§ 169-14 Rural Residential (R-20)

- A. District purpose. This is a medium-density residential neighborhood abutting the Sage Estates and is characterized by medium-sized lot residential and institutional development in a park-like setting.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structures
 - (2) Dwelling, Single-Family
 - (3) Electrical Vehicle Charging Station
 - (4) Home Occupation-1
 - (5) Manufactured Home, Individual
 - (4) Private swimming pools
 - (5) Public Facility, Minor
 - (6) Public Parks and Playgrounds
 - (7) Tier 1 Solar Energy System – Roof Mounted and Building Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Day Care Home – Adult and/or Child
 - (2) Community Residential Care Facility for the Disabled
 - (3) Parking Lot, Accessory-1
 - (3) Tier 1 Solar Energy System – Ground Mounted
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) Communications Tower
 - (2) Community and Government Use

- (3) Home Occupation-2
- (4) In-Law Apartment
- (5) Parking Lot, Accessory-2
- (6) Public or Private Schools
- (7) Religious Use
- (8) Telephone exchange or switching stations
- E. Maximum residential density: 1 dwelling unit per 20,000 square feet.
- F. Minimum lot dimensions.
 - (1) Minimum lot size: 20,000 square feet.
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum lot depth: 125 feet.
 - (4) Maximum lot coverage: 25%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 40 feet.
 - (2) Rear yard setback: 25 feet.
 - (3) Side yard setback: 20 feet.
- H. Building height.
 - (1) Number of stories: 2-1/2
 - (2) Maximum height: 35 feet.

§ 169-15 Single-Family Residential (R1)

- A. District purpose. This residential zoning district is comprised of higher-density single-family residential development located on the periphery of the Village and within the Village's core walkable residential areas surrounding the Village Center.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structures
 - (2) Dwelling, Single-Family
 - (3) Electrical Vehicle Charging Station
 - (4) Home Occupation-1
 - (5) Manufactured Home, Individual
 - (6) Parking Lot, Accessory-1

- (7) Private Swimming Pools
- (8) Public Facility, Minor
- (9) Public Parks and Playgrounds
- (10) Tier 1 Solar Energy System – Roof-Mounted and Building-Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Community Residential Care Facility for the Disabled
 - (2) Day Care Home – Adult and/or Child
 - (3) Home Occupation-2
 - (4) Tier 1 Solar Energy System – Ground Mounted
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) Communications Tower
 - (2) Community and Government Use
 - (3) In-Law Apartment
 - (4) Parking Lot, Accessory-2
 - (5) Public or Private Schools
 - (6) Religious Use
 - (7) Telephone Exchange or Switching Stations
- E. Maximum residential density: 1 dwelling unit per 8,000 square feet.
- F. Minimum lot dimensions.
 - (1) Minimum lot size: 8,000 square feet
 - (2) Minimum lot width: 70 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Maximum lot coverage: 35%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 20 feet.
 - (2) Rear yard setback: 20 feet.
 - (3) Side yard setback: 10 feet.

H. Building height.

- (1) Number of stories: 2-1/2
- (2) Maximum height: 35 feet.

§ 169-16 Two-Family Residential (R2)

A. District purpose. This walkable residential zoning district is comprised of higher-density single- and two-family residential development located on the southern periphery of the Village, bordering North Albany to the south with direct pedestrian connections to the Broadway Business and T4 Neighborhood Districts.

B. Permitted uses. The following uses are permitted as of right.

- (1) Accessory Structures
- (2) Dwelling, Single Family
- (3) Dwelling, Two Family
- (4) Electric Vehicle Charging Station
- (5) Home Occupation-1
- (6) Manufactured Home, Individual
- (7) Parking Lot, Accessory-1
- (8) Public Parks and Playgrounds
- (9) Public Facility, Minor
- (10) Private Swimming Pool
- (11) Tier 1 Solar Energy System – Roof-Mounted and Building Integrated

C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:

- (1) Community Residential Care Facility for the Disabled
- (2) Home Occupation-2
- (3) Tier 1 Solar Energy System – Ground Mounted

D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.

- (1) Communications Tower
- (2) Community and Government Use
- (3) In-Law Apartment
- (4) Parking Lot, Accessory-2

- (5) Public or Private Schools
- (6) Religious Use
- (7) Telephone Switching Stations
- E. Maximum residential density. 1 dwelling unit per 6,000 square feet.
- F. Minimum lot dimensions.
 - (1) Minimum lot size: 6,000 square feet.
 - (2) Minimum lot width: 60 feet.
 - (3) Minimum lot depth: 80 feet.
 - (4) Maximum lot coverage: 35%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 20 feet.
 - (2) Rear yard setback: 20 feet.
 - (3) Side yard setback: 10 feet.
- H. Building height.
 - (1) Number of stories: 2-1/2
 - (2) Maximum height: 35 feet.

§ 169-17 Townhouse Residential (R2A)

- A. District purpose. The R2A zoning district is a high-density residential district with a mix of townhomes, single- and two-family dwellings located in the core residential and mixed-use areas of the Village and within walking distance to the Broadway Corridor.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structure
 - (2) Dwelling, Single Family
 - (3) Dwelling, Two-Family
 - (4) Electric Vehicle Charging Stations
 - (5) Home Occupation-1
 - (6) Manufactured Home, Individual
 - (7) Parking Lot, Accessory-1
 - (8) Private Swimming Pools
 - (9) Public Facility, Minor

- (10) Public Parks and Playgrounds
- (11) Tier 1 Solar Energy System-Roof Mounted and Building-Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Community Residential Care Facility for the Disabled
 - (2) Dwelling, Townhouse
 - (3) Home Occupation-2
 - (4) Tier 1 Solar Energy System-Ground Mounted
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) Communications Tower
 - (2) Community and Government Use
 - (3) In-Law Apartment
 - (4) Parking Lot, Accessory-2
 - (5) Public or Private Schools
 - (6) Religious Use
 - (7) Telephone Exchange or Switching Stations
- E. Maximum residential density: 12 dwelling units per acre.
- F. Minimum lot dimensions.
 - (1) Minimum lot size: $\frac{1}{2}$ acre.
 - (2) Minimum lot width: 90 feet.
 - (3) Minimum lot depth: 175 feet.
 - (4) Maximum lot coverage: 35%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 30 feet.
 - (2) Rear yard setback: 40 feet.
 - (3) Side yard setback: 15 feet.
- H. Building height.
 - (1) Number of stories: 2-1/2
 - (2) Maximum height: 35 feet.

§ 169-18 High Density Residential (R3)

- A. The R3 Zoning District is a walkable, high-density residential district with a mix of single- and two-family dwellings and townhouse units adjacent to Broadway and the Village Center.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structure
 - (2) Dwelling, Single Family
 - (3) Dwelling, Two-Family
 - (4) Electric Vehicle Charging Stations
 - (5) Home Occupation-1
 - (6) Manufactured Home, Individual
 - (7) Parking Lot, Accessory-1
 - (8) Public Parks and Playgrounds
 - (9) Public Facility, Minor
 - (10) Private Swimming Pools
 - (11) Tier 1 Solar Energy System Roof-Mounted and Building-Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Community Residential Care Facility for the Disabled
 - (2) Dwelling, Townhouse
 - (3) Home Occupation-2
 - (4) Tier 1 Solar Energy System Ground-Mounted
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) Community and Government Use
 - (2) Communications Tower
 - (3) In-Law Apartment
 - (4) Parking Lot, Accessory-2
 - (5) Religious Use
 - (6) Telephone Exchange or Switching Stations

- E. Maximum residential density: 1 dwelling unit per 6,000 square feet.
- F. Minimum lot dimensions.
 - (1) Minimum lot size: 6,000 square feet.
 - (2) Minimum lot width: 70 feet.
 - (3) Minimum lot depth: 70 feet.
 - (4) Maximum lot coverage: 40%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 20 feet.
 - (2) Rear yard setback: 10 feet.
 - (3) Side yard setback: 20 feet.
- H. Building height.
 - (1) Number of stories: 2-1/2
 - (2) Maximum height: 35 feet.

§ 169-19 Multi-Family Residential (R4)

- A. The R4 district is a high-density multi-family residential district intended for large multi-family developments located within close proximity to the Broadway Corridor and transit stops, including Bus Rapid Transit stations.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structures
 - (2) Dwelling, Townhouse
 - (3) Dwelling, Two-Family
 - (4) Electric Vehicle Charging Station
 - (5) Parking Lot, Accessory-1
 - (6) Public Facility, Minor
 - (7) Public Parks and Playgrounds
 - (8) Tier 1 Solar Energy System Roof-Mounted and Building-Integrated
 - (9) Private Swimming Pools
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Community Residential Care Facility for the Disabled

- (2) Home Occupation-2
- (3) Tier 1 Solar Energy System Ground-Mounted
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) Communications Tower
 - (2) Community and Government Use
 - (3) Community Garden
 - (4) Dwelling, Multi-Family
 - (5) In-Law Apartment
 - (6) Parking Lot, Accessory-2
 - (7) Public or Private Schools
 - (8) Religious Use
 - (9) Telephone Exchange or Switching Stations
- E. Maximum residential density: 12 dwelling units per acre.
- F. Minimum lot dimensions.
 - (1) Minimum lot size: 1 acre.
 - (2) Minimum lot width: 150 feet.
 - (3) Minimum lot depth: 200 feet.
 - (4) Maximum lot coverage: 35%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 60 feet.
 - (2) Rear yard setback: 30 feet.
 - (3) Side yard setback: 30 feet.
- H. Building height.
 - (1) Number of stories: 2-1/2 stories.
 - (2) Maximum height: 45 feet.

ARTICLE 3 BROADWAY CORRIDOR FORM BASED DISTRICTS**§ 169-20 Broadway Business District (BBD)**

- A. District Description. The Broadway Business District is intended to allow mixed-use residential/commercial/industrial development along Broadway, with buildings rising to a maximum of four stories and creating a consistent streetwall fronting plaza/public gathering spaces along Broadway. This building placement will provide a sense of enclosure, framing the public space, and helping to offset the physical and visual dominance of the roadway. To improve the pedestrian experience, it is recommended the corridor be improved with wide sidewalks, outdoor cafes, and plazas to provide pedestrian gathering places, high visibility crosswalks, pedestrian lighting to improve safety, and street trees to improve the streetscape aesthetic and provide cooling. On-street parking on side streets is strongly encouraged.
- B. General design principles
- (1) Focus on the buildings. The architecture of the building should be the most prominent visual feature of the site, with clearly visible entryways, while parking areas and utilitarian functions are hidden or screened from view.
 - (2) Design with the pedestrian in mind. Always create attractive, shaded, and safe routes for people to walk and relax which link to surrounding buildings and properties. Limit the visibility of parking areas and wide expanses of sun-drenched asphalt which make it uninviting for pedestrians.
 - (3) Keep things green. Design emphasis should be in providing green lawns, robust landscaped areas, where appropriate, and plenty of shade trees wherever possible to soften the look of the site. Integration of green infrastructure is strongly encouraged.
 - (4) Create a local identity. The architecture of the Broadway Business District should reflect the vision of the Village of Menands and avoid or minimize corporate chain architectural styles.

C. Permitted uses. The following uses are permitted as of right.

- (1) Accessory Structures
- (2) Electric Vehicle Charging Stations
- (3) Farmer's Market
- (4) Home Occupation-1
- (5) Parking Lot, Accessory-1
- (6) Public Facility, Minor
- (7) Public Parks and Playgrounds
- (8) Tier 1 Solar Energy System Ground-Mounted

D. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:

- (1) Bakery
- (2) Bakery, Wholesale
- (3) Banks
- (4) Barbershops & Beauty Parlors
- (5) Bowling Alleys
- (6) Business & Professional Office Club, Civic, Social/Fraternal Organization
- (7) Commercial Greenhouse
- (8) Community Garden
- (9) Cultural Venue Hotels and Motels
- (10) Drive-Thru Establishment
- (11) Medical Facility, 20,000 SF & Large Scale
- (12) Outdoor Café
- (13) Outdoor & Storage Facilities Accessory to Light Manufacturing, Light Industry, and Research & Development Facilities
- (14) Performing Arts Center
- (15) Public and Private Schools
- (16) Radio & Television Stations
- (17) Recreational Facility, Commercial
- (18) Restaurants

- (19) Retail and/or Service Establishment
 - (20) Supermarket
 - (21) Tier 1 Solar Energy Facilities Ground-Mounted
 - (22) Transit Facility
 - (23) Veterinary Facility
- E. Special uses. The following uses are authorized by special use permit pursuant to this chapter:
- (1) Cannabis Retail Dispensary
 - (2) Community and Government Use
 - (3) Day Care Center-Adult and/or Child
 - (4) Dwelling, Multi-Family
 - (5) Dwelling, Townhouse
 - (6) Light Industry & Manufacturing Facilities
 - (7) Home Occupation-2
 - (8) In-Law Apartment
 - (9) Mixed-Use
 - (10) Motor Vehicle Fuel Sales
 - (11) Parking Lot, Accessory-2
 - (12) Parking Lot, Public
 - (13) Religious Use
 - (14) Research & Development Facilities
 - (15) Recreational Facilities
 - (16) Shopping Centers
 - (17) Utility Substations
 - (18) Wholesale Business, Large-Scale
 - (19) Wholesale Business, Small-Scale
- F. Maximum residential density.
- (1) Base density: 30 dwelling units per acre.
 - (2) TOD Density: 40 dwelling units per acre. [Applicable to parcels located within ½ mile of a Bus Rapid Transit Station as indicated on the Zoning Map]

G. Minimum lot dimensions.

- (1) Lot size: 10,000 square feet.
- (2) Lot width: 75 ft.
- (3) Lot depth: 90 ft.
- (4) Greenspace: 20%
- (5) Lot coverage: 80%

H. Principal building setbacks.

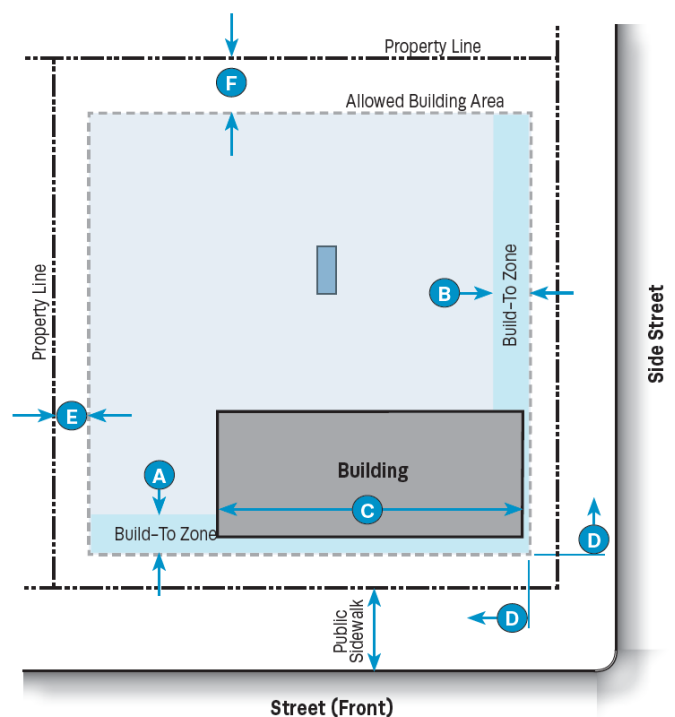
- (1) Build-to-zone: Average of buildings on either side with a maximum of 20 ft. A
- (2) Side street façade: 0-ft. minimum/20-ft. max. B

I. Building façade width at the build-to-zone.

- (1) Front façade: Minimum of 70% width of the development area. C
- (2) Side street façade: Minimum of 25% width of the development area. D
- (3) Corner properties: Both street facing facades of corner properties must be built within the build-to-zone a minimum of the first 30 feet from the corner, measured parallel to the applicable street.. D

J. Other setbacks – minimum distance from property line.

- (1) Side – principal structure: 0-ft. or 10 ft. when adjacent to a residential district. E
- (2) Side – accessory structure: 10 ft. minimum.
- (3) Rear – principal structure: 15 ft. or 20 ft. when adjacent to a residential district. F
- (4) Rear – accessory structure: 15 ft.



K. Parking setbacks – minimum distance from the property line/back edge of sidewalk.

(1) Front yard: 20 ft.

(a) Front yard parking options. When proposed by the applicant due to topographic, lot configuration, and/or existing development conditions on the subject site, the Village Board may approve a single row of parking within the 20 ft. front yard setback. Wherever possible, the spaces should be located up against the building/walkway area and buffered from the sidewalk with adequate landscaping. The Village Board shall have the authority to increase the front yard setback to permit front yard parking to ensure safe ingress and egress and circulation. All other on-site parking shall be located in the side or rear of the principal building.

(2) Side street: 20 ft.

(3) Side yard: 20 ft.

(4) Rear yard: 10 ft.

L. Building form.

(1) Height.

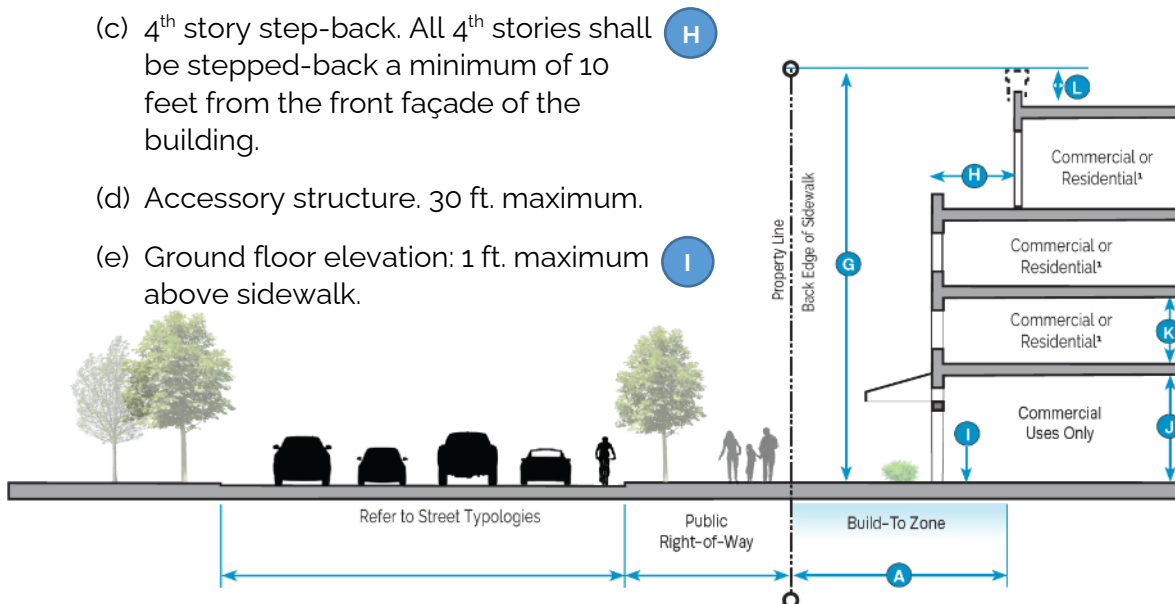
(a) Principal building: 2-story minimum/ 48 ft. maximum. The second story is not required to be occupiable space. A false second floor may be permitted at the discretion of the Village Board and shall be a minimum of 9 ft. in height.

(b) The 2-story minimum shall not apply along side streets excepting corner properties.

(c) 4th story step-back. All 4th stories shall be stepped-back a minimum of 10 feet from the front façade of the building.

(d) Accessory structure. 30 ft. maximum.

(e) Ground floor elevation: 1 ft. maximum above sidewalk.



(f) Ground floor ceiling: 15 ft. maximum. 

(g) Upper floor(s) ceiling: 9 ft. minimum. 

(h) Parapet (if applicable): 3 ft. minimum. 

M. Frontage types permitted – Refer to Schedule 4. Frontage Types.

(1) Terrace or lightwell.

(2) Forecourt.

(3) Stoop.

(4) Shopfront & awning.

(5) Café front.

(6) Gallery

(7) Arcade.

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§ 169-21 Neighborhood District (T4)

- A. District Description. The T4 Neighborhood District is intended to encourage and facilitate new small-scale infill development of new buildings incorporating a mix of unit types within a block grid typical of existing residential areas in Menands. New development should preserve the residential and pedestrian character of the streets, and neighborhoods should relate to nearby properties. In addition to residential, small-scale office and service retail uses are encouraged.
- B. General design principle.
- (1) Maintain neighborhood scale. The architecture and overall massing of new buildings should respect the surrounding neighborhood scale and character.
 - (2) Design with the pedestrian in mind. Always create attractive, shaded, and safe routes for people to walk and relax, with links to surrounding buildings and neighborhoods. Where feasible, limit the visibility of parking areas and wide expanses of sun-drenched asphalt which make it uninviting for pedestrians.
 - (3) Keep things green. Design emphasis should be in providing green urban lawns, robust landscaped areas, where appropriate and plenty of shade trees wherever possible to soften the look of the site and maintain the neighborhood character.
 - (4) Create local identity. The T4 District seeks to promote infill within existing mixed-use residential neighborhoods. Development must maintain the vision of Menands and preserve or reestablish vibrant neighborhoods, avoiding the use of corporate chain architectural styles.
- C. Permitted uses. The following uses are permitted as of right pursuant to this chapter.
- (1) Accessory Structure
 - (2) Electric Vehicle Charging Station
 - (3) Farmer's Market

- (4) Home Occupation-1
- (5) Parking Lot, Accessory-1
- (6) Public Facility, Minor
- (7) Public Parks and Playgrounds
- D. Site plan uses. The following uses are authorized with site plan approval pursuant to this chapter:
 - (1) Bakery
 - (2) Banks, Financial Institutions
 - (3) Barbershops & Beauty Parlors
 - (4) Bowling Alleys
 - (5) Business & Professional Office
 - (6) Club, Civic, Social/Fraternal Organization
 - (7) Community and Government Use
 - (8) Community Garden
 - (9) Cultural Venue
 - (10) Drive-Thru Establishment
 - (11) Home Occupation-2
 - (12) Hotels and Motels
 - (13) Medical Facility, 20,000 SF
 - (14) Nursing Homes
 - (15) Outdoor Café
 - (16) Performing Arts Center
 - (17) Public and Private Schools
 - (18) Recreational Facility, Commercial
 - (16) Restaurants
 - (17) Retail and/or Service Establishment
 - (18) Supermarket
 - (19) Tier 1 Solar Energy Facilities Ground-Mounted
 - (20) Transit Facility

E. Special uses. The following uses are authorized with special use permit approval pursuant to this chapter:

- (1) Drive-Thru Establishment
- (2) Dwelling, Multi-Family
- (3) Dwelling, Townhouse
- (4) In-Law Apartment
- (5) Mixed-Use
- (6) Parking Lot, Accessory-2
- (7) Radio & Television Stations
- (8) Religious Use

F. Maximum residential density.

- (1) Base density: 25 dwelling units per acre.

G. Minimum lot dimensions.

- (1) Lot size: 5,000 square feet.
- (2) Lot width: 25 ft.
- (3) Lot depth: 100 ft.
- (4) Greenspace: 20%.
- (5) Lot coverage: 80%.

H. Principal building setbacks.

- (1) Build-to-Zone: 5 ft. minimum to 12 ft. maximum. For a café front, a greater setback may be permitted to accommodate outdoor seat.

- (2) Side street façade: 5 ft. minimum to 12 ft. maximum.

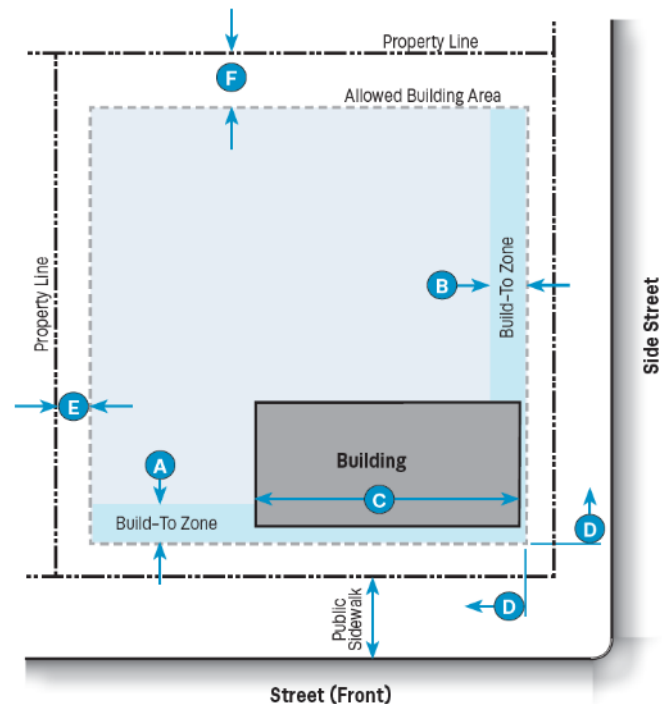
I. Building façade width at the build-to-zone.

- (1) Front façade: Minimum 50% width of the development area.
- (2) Side street façade: Minimum 25% width of the development area.

A

B

C



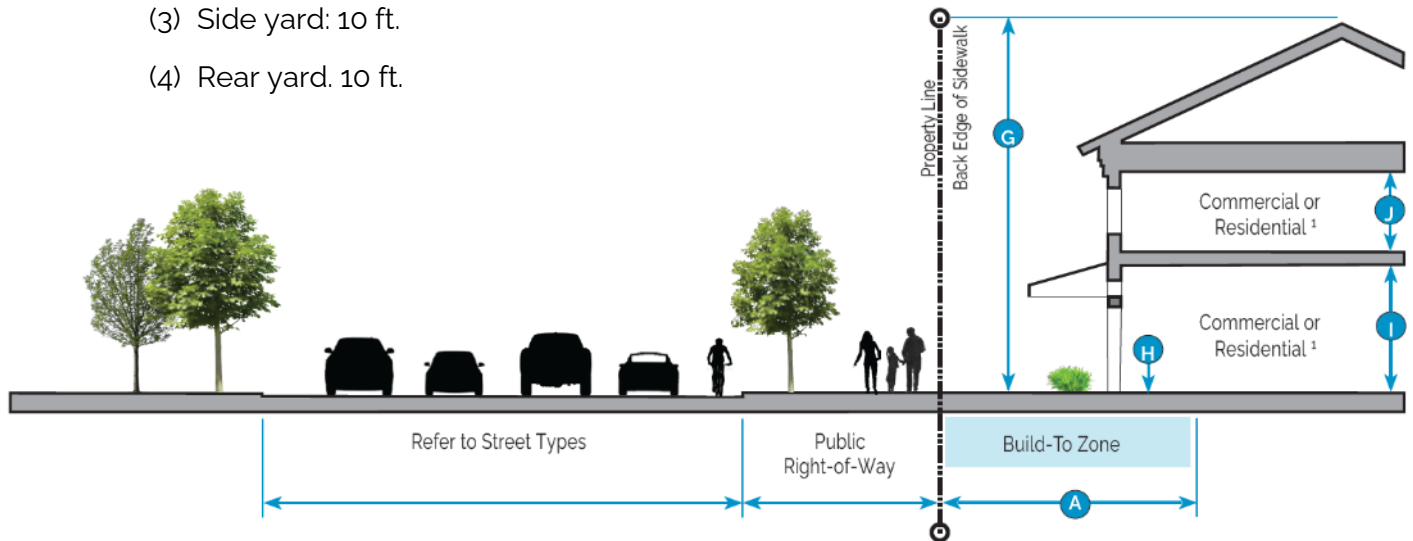
- (3) Corner properties. Both street facing facades of corner properties must be built within the build-to-zone for first 30 ft. from the corner. D

J. Other setbacks.

- (1) Side – principal structure: 0-ft. minimum or 10 ft. minimum when adjacent to a residential district. E
- (2) Side – accessory structure: 3 ft. minimum.
- (3) Rear – principal structure: 3 ft. minimum or 15 ft. from the center line of alley. F
- (4) Rear – accessory structure: 15 ft. minimum.

K. Parking setbacks – minimum distance from property line/back edge of sidewalk

- (1) Front yard: 20 ft.
- (2) Side street: 10 ft.
- (3) Side yard: 10 ft.
- (4) Rear yard: 10 ft.



L. Building form.

(1) Height.

- (a) Principal structure: 2-story minimum/40 ft. maximum. The second floor shall be occupiable. 
- (b) Accessory structure: 30 ft. maximum.
- (c) Ground floor elevation: 1 ft. maximum above sidewalk. 
- (d) Ground floor ceiling: 11 ft. minimum, 25 ft. maximum. 
- (e) Upper floor ceiling: 14 ft. maximum. 

M. Frontage types permitted – Refer to Schedule 4. Frontage Types.

- (1) Porch and fence.
- (2) Terrace and lightwell.
- (3) Forecourt.
- (4) Stoop.
- (5) Shopfront and awning.
- (6) Café front.

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§ 169-22 Village Center District (T5)

- A. District Description. The T5 Village Center District is intended to create a recognizable Village Center with a strong mix of commercial and residential uses, with lower levels of buildings providing retail sales, restaurants, local services, and offices. The upper floors will provide a diverse mix of commercial uses along with residential for people of different ages, incomes, and abilities. At the interface of the building facades and the public sidewalk, ground floor retailers and restaurants are encouraged to provide seating and gathering spaces. Broadway and side streets shall be walkable and tree-lined, with wide sidewalks connecting buildings across well landscaped areas, and shared parking tucked behind or to the side of buildings to minimize hardscape. On-street parking on side streets is strongly encouraged.
- B. General design principles.
- (1) Focus on the buildings. The architecture of the building should be the most prominent visual feature of the site, with clearly visible entryways, with parking areas and utilitarian functions hidden or screened from view.
 - (2) Design with the pedestrian in mind. Similar to the Broadway Business District, future development must always seek to create attractive, shaded, and safe routes for people to walk and relax which link to surrounding buildings and properties. Limit the visibility of parking areas and wide expanses of sun-drenched asphalt which make it uninviting for pedestrians.
 - (3) Keep things green. Design emphasis should be in providing robust landscaped areas, where appropriate, with plenty of shade trees to soften the look of the site. Integration of green infrastructure is strongly encouraged.

- (4) Create a local identity. Consistent with the Broadway Business District, the architecture of the Village Center District should reflect the vision of the Village of Menands and avoid or minimize corporate chain architectural styles.

C. Permitted uses. The following uses are permitted as of right pursuant to this chapter:

- (1) Accessory Structures
- (2) Electric Vehicle Charging Stations
- (3) Farmer's Market
- (4) Home Occupation-1
- (5) Parking Lot, Accessory-1
- (6) Private Swimming Pools
- (7) Public Facility, Minor
- (8) Public Parks & Playgrounds
- (9) Tier 1 Solar Energy Systems Roof-Mounted and Building-Integrated

D. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:

- (1) Animal Boarding
- (2) Animal Daycare
- (3) Animal Shelter
- (4) Bakery
- (5) Banks, Financial Institutions
- (6) Barber Shops & Beauty Parlors
- (7) Bowling Alleys
- (8) Business & Professional Office
- (9) Club, Civic, Social/Fraternal Organization
- (10) Cultural Venue
- (11) Community Garden
- (12) Hotels & Motels
- (13) Medical Facility, 20,000 SF
- (14) Nursing Homes
- (15) Outdoor Café

- (16) Performing Arts Center
- (17) Public or Private Schools
- (18) Recreational Facility, Commercial
- (19) Restaurants
- (20) Retail & Service Establishment
- (21) Self-Storage Facilities
- (22) Supermarket
- (23) Transit Facility
- (24) Tier 1 Solar Energy System-Ground-Mounted

E. Special uses. The following uses are authorized by special use permit approval pursuant to this chapter.

- (1) Cannabis Retail Dispensary
- (2) Community & Government Use
- (3) Day Care Center – Adult and/or Child
- (4) Drive-Thru Establishment
- (5) Dwelling, Multi-Family
- (6) Dwelling, Townhouse
- (7) Home Occupation-2
- (8) Light Industry & Manufacturing Facilities
- (9) Medical Facility-Large
- (10) Mixed-Use
- (11) Parking Lot, Accessory-2
- (12) Parking Lot, Public
- (13) Radio & Television Stations
- (14) Religious Use
- (15) Research & Development Facilities
- (16) Shopping Centers

F. Maximum residential density.

- (1) Base density: 30 dwelling units per acre.
- (2) TOD Density: 40 dwelling units per acre. [Applicable to parcels located within ½ mile of a Bus Rapid Transit Station as indicated on the Zoning Map]

G. Minimum lot dimensions.

- (1) Lot size: 5,000 square feet.
- (2) Lot width: 50 ft.
- (3) Lot depth: 100 ft.
- (4) Greenspace: 20%.
- (5) Lot coverage: 80%.

H. Principal building setbacks.

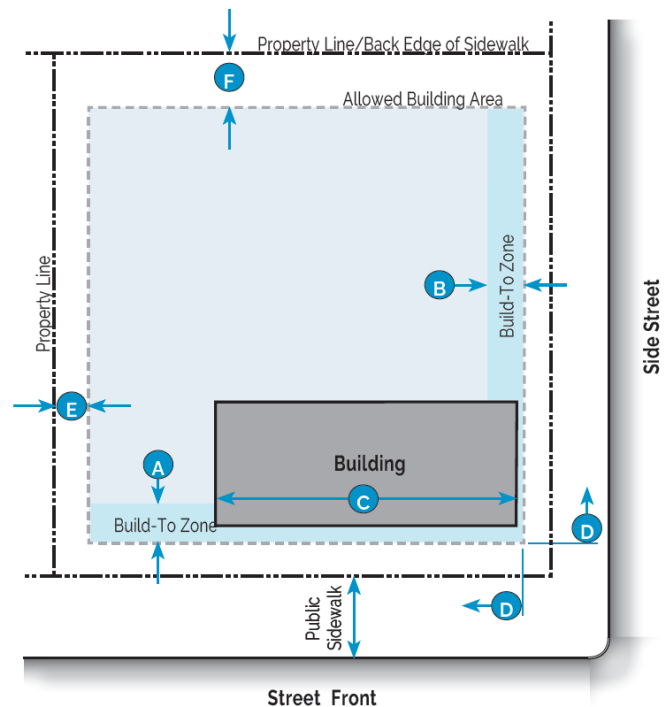
- (1) Build-to-Zone: 4 ft. minimum to 12 ft. maximum. **(A)**
- (2) Side street façade: 4 ft. minimum to 12 ft. maximum. **(B)**

I. Building façade width at the build-to-zone.

- (1) Front façade: Minimum 70% width of the development area. **(C)**
- (2) Side street façade: Minimum 25% width of the development area.
- (3) Corner properties. Both street facing facades of corner properties must be built within the build-to-zone for first 30 ft. from the corner. **(D)**

J. Other setbacks.

- (1) Side – principal structure: 0-ft. minimum or 12 ft. minimum when adjacent to a residential district. **(E)**
- (2) Side – accessory structure: 5 ft. minimum.
- (3) Rear – principal structure: 3 ft. minimum or 15 ft. when adjacent to a residential district or from the center line of an alley. **(F)**
- (4) Rear – accessory structure: 3 ft. minimum.



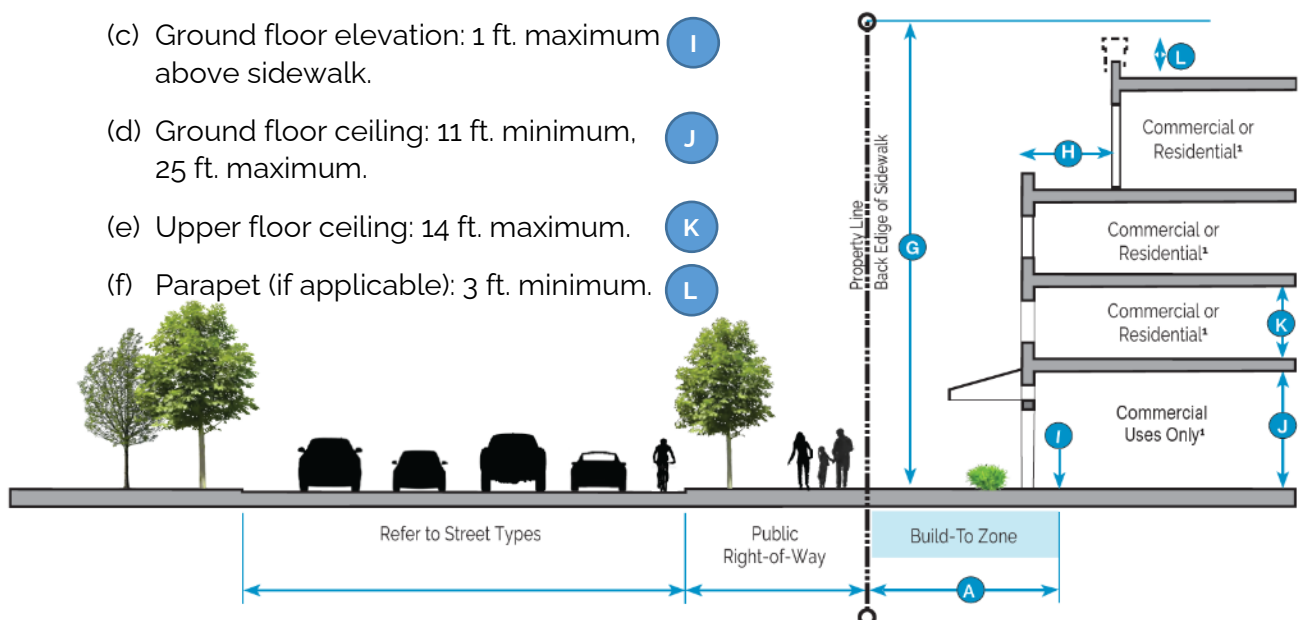
K. Parking setbacks – minimum distance from property line/back edge of sidewalk

- (1) Front yard: 25 ft.
- (2) Side street: 15 ft.
- (3) Side yard: 20 ft.
- (4) Rear yard: 10 ft. or 15 ft. when adjacent to a residential district or from the center line of an alley way.

L. Building form.

(1) Height.

- (a) Principal structure: 2-story minimum/40 ft. maximum. The second floor shall be occupiable. G
- (b) Principal structure: The 2-story minimum shall not apply to side streets, excepting corner properties.
- (b) Principal structure – 3 story maximum on the west side of Broadway and a 4-story maximum on the east side of Broadway.
- (c) Principal structure – 4th story step-back required. H
- (b) Accessory structure: 30 ft. maximum.
- (c) Ground floor elevation: 1 ft. maximum above sidewalk. I
- (d) Ground floor ceiling: 11 ft. minimum, 25 ft. maximum. J
- (e) Upper floor ceiling: 14 ft. maximum. K
- (f) Parapet (if applicable): 3 ft. minimum. L



M. Frontage types permitted - Refer to Schedule 4. Frontage Types.

- (1) Terrace and lightwell.
- (2) Forecourt.
- (3) Stoop.
- (4) Shopfront and awning.
- (5) Café front.
- (6) Gallery
- (7) Arcade
- (8) Porch

§ 169-23 Form Based Code District Design Standards and Guidelines

The following design standards and guidelines shall apply to all Broadway Corridor Form Based Districts unless otherwise indicated. The Village Board reserves the right to apply these design standards and guidelines outside of the Broadway Corridor FBC Districts.

A. Site planning.

- (1) Consistent streetwall. Primary buildings shall be located along the front of the property, close to the public way and pedestrian areas. Building facades shall be constructed parallel to the front lot line to help create a consistent street wall along the sidewalk. Figure 1.
- (2) Shared Access. Shared curbcuts, driveways and parking lots are strongly encouraged to reduce the amount of paved parking area and provide access management improvements. Shared access and parking agreements between adjoining property owners are encouraged. Figure 2.
- (3) Solar Access. Where practical, buildings and rooflines should be oriented to accommodate existing (or future) solar panel installations with southern exposures.
- (4) Front Yard Parking. Except in the Broadway Business District, no vehicle



Figure 1. Locating buildings at a similar distance parallel to the street to create a consistent street wall.

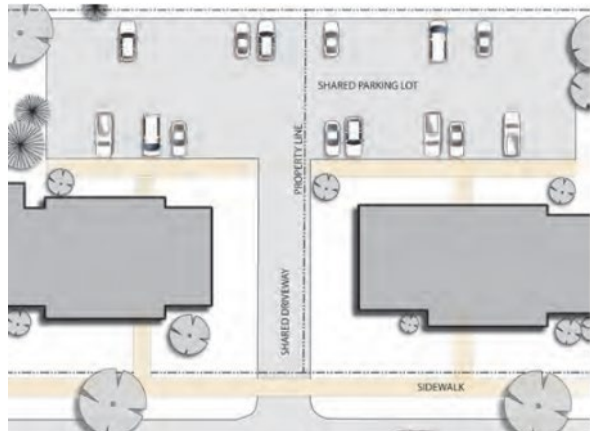


Figure 2. Shared curb cut and parking areas. Shared curb cuts and parking areas limit the number of driveways needed on busy streets and help to reduce the amount of paved parking area.

parking areas shall be permitted in the front yard.

- (5) Minimize Impervious Surfaces. Paved vehicle parking areas, driveways and curbcuts shall be limited to the minimum required clearance dimensions and amounts to reduce unnecessary impervious surface area wherever possible.
- (6) Gas Stations. Gas stations are encouraged to locate their building toward the front of the lot, with the pump canopy behind or toward the rear of the lot as shown in Figure 3. Pump canopies, if provided, should match the style and materials of the building roof.

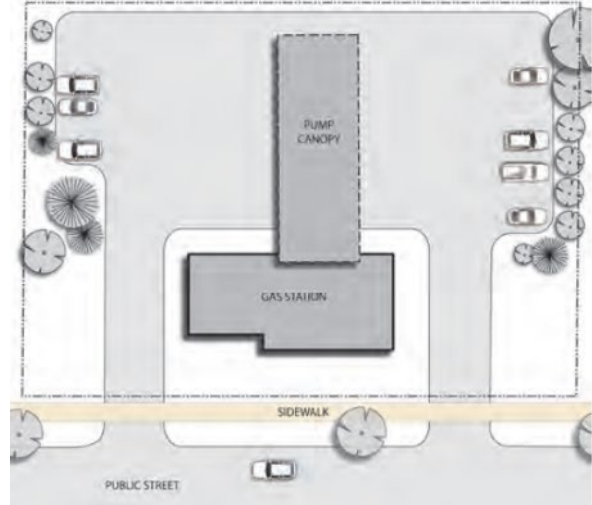


Figure 3. Gas station. Gas stations buildings should be located up closer to the street in line with other buildings, while their pump canopy can be located in the rear.

- (7) Drive-through facilities. Drive-through windows should be located at the side or rear of the building so that they do not face a public street. At corner locations, drive-through windows should be located at the rear of the building. Vehicle canopies, if provided, should match the style and materials of the building roof.
- (8) Mass Transit. Where appropriate new roads should be constructed to accommodate mass transit, using such methods as reserving additional right of way intermittently along roads to allow for future bus stops, ride share, or similar.

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- (g) Existing shopping plazas - BBD. Within the Broadway Business District, existing shopping plazas should work to infill the front and underutilized portions of the property over time with smaller scale, pedestrian-friendly infill development. Figure 4.

B. The evolution of older shopping centers

- (1) Existing Conditions. Existing commercial shopping plazas and malls, often set far back from the road behind large parking areas, will want to evolve over time to reflect a more traditional development style and smart growth. The large parking areas can be better utilized with small infill development toward the public street, helping to bring shops closer to passing travelers, increasing rentable floor area, and creating a new, diversified appearance from the road.

The example images shows how new infill construction can help evolve an old shopping plaza into a more contemporary shopping experience.

- (2) Phase One. The front of the plaza and parking area are reconfigured to make room for a few new infill buildings, creating an attractive front yard and grand driveway entrance.



Figure 4. Evolution of large shopping plazas. Existing shopping plazas can evolve over time with new infill development which helps to fill in the streetwall along the main road and create a more attractive pedestrian experience.

As an example, taller, two-story structures are placed at either side of the entrance, creating two new "corner" properties with high visibility.

Toward the rear of the site, new buildings start to frame out a small public square, creating an inviting place to shop.

- (3) Phase Two. Over time, additional infill can continue to provide additional rentable floor area to the plaza, while adding a new fresh facade on the property. Particular emphasis should be paid to creating an attractive two-story street wall along the main road to frame the entrance into the plaza.

C. Landscaping

- (1) Existing Site Character. Existing mature trees, notable vegetation and site topography should be considered for preservation and incorporation into the site plan design, as it may provide opportunities to enhance the design.



Figure 5. Front yard landscaping.

- (2) Front Yard Design. The area between the building facade and the road shall be limited to acceptable landscaping, pedestrian walkways, amenities and outdoor patios, plazas or dining areas. Figure 5.
- (3) Acceptable Landscaping. All greenspace areas on the site shall be covered by one or more of the following:
 - (a) Lawn or sod
 - (b) Trees and shrubbery. Refer to **Schedule 1 Permitted Street Trees & Native Landscaping Species**, for a list of permitted tree species
 - (c) Nursery plants or other variety of groundcover with appropriate non-stone mulch. Stone mulch is discouraged except as described in subsection F -Stormwater Management.
 - (d) Native vegetation. Refer to **Schedule 1 – Permitted Street Trees and Native Landscaping Species**.

(4) Building Perimeter Landscaping. Where practical and appropriate, a variety of shrubs and flowers with non-stone mulch should be provided along the base of the building perimeter. Figures 6 and 7.

(5) Pedestrian Walkway Landscaping. Pedestrian walkway and outdoor patio plaza areas should be accented where possible with a dense planting of a variety of shrubs and flowers to create an attractive and welcoming setting. Figure 8.

(6) New Site Trees. Where pre-existing native trees on the site cannot be preserved or do not exist, new tree plantings should be incorporated into the site where possible to provide shade in larger areas of lawn. Figure 5.

(7) Street Trees. Street trees shall be provided along all public road frontages at approximately 50 feet on center and within or adjacent to the public-right-of-way, taking into consideration the location of existing utilities, signs, and other objects. Street trees shall be shade trees (not ornamental) with a minimum caliper of three inches and a minimum height of eight feet. Coordination with the NYSDOT and Village shall be required to confirm size and location of street trees when proposed within the NYS right-of-way. Refer to **Article 6, Complete Streets** for further guidance on work within the NYS right-of-way. Refer to **Schedule 1 Permitted Street Trees & Native Landscaping Species**, for a list of permitted tree species.



Figure 6. Building perimeter landscaping.



Figure 7. Building perimeter landscaping.



Figure 6. Pedestrian walkway landscaping.

- (8) Continuous Sidewalks. Concrete sidewalks shall be continued uninterrupted across driveways and curbcuts to provide a safer and clearer path for pedestrians and act as a visual warning to motorists. Figure 7.

D. Parking lot landscaping

- (1) Screening From Road. Where practical, all new surface parking areas within 100 feet from an abutting public street shall be screened to the maximum extent practical. Property owners are strongly encouraged to add screening elements to pre-existing surface parking lots as described below.

- (a) Unless there are limiting topographical challenges or other unique situations that would prevent adequate screening, parking areas shall be screened by a continuous low wall or landscaped planting bed between 3.5 and 4.5 feet in height consisting of a mixture of coniferous and deciduous hedges, bushes as well as ornamental trees spaced no less than 25 feet on center. Figures 10, 11, 12.

- (b) The screening should extend the full width of the parking frontage except where needed to accommodate breaks for driveway and sidewalk access as well as sight distance requirements.

- (c) Constructed landscape walls, if used, shall be made of materials which match or complement the



Figure 7. Sidewalks shall extend across driveways helps to create a nicer and safer pedestrian environment.

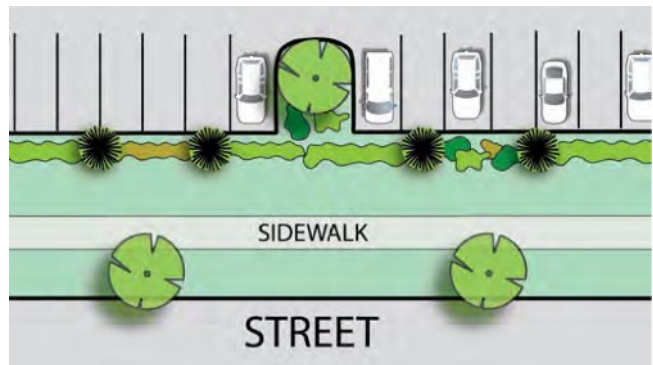


Figure 8. Parking lot screening and frontage perimeter bulb-out.

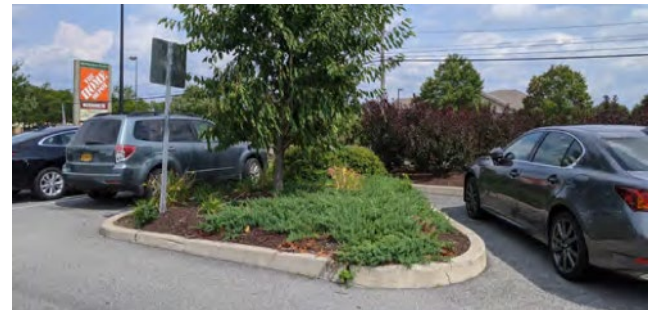


Figure 9. Frontage perimeter bulb-out



Figure 10. Parking lot screening along the road

building facade, such as brick, stone, metal fencing or as otherwise approved by the reviewing board.

- (2) **Frontage Perimeter Bulb-Out.** All parking areas abutting a public right-of-way frontage shall provide landscaped bulb-outs so that there are not more than 25 continuous parking spaces in a row uninterrupted along that frontage without a landscaped bulb-out. The bulb-out should be equal in width and depth to the adjacent parking spaces, shall include at least one ornamental tree, as well as groundcover including grass, shrubs or flowers where not more than 50% of the groundcover is mulch or gravel. Figures 9.
- (3) **Corner Bulb-Out.** A landscaped bulb-out should be located at the ends of any perimeter parking rows, such as parking lot corners, or abutting a vehicle travel lane. The bulb-out should be equal in width and depth to the adjacent parking spaces, shall include at least one ornamental tree, as well as groundcover including grass, shrubs or flowers where not more than 50% of the groundcover is mulch or gravel. These corner conditions are ideal locations to include pedestrian walkways. Figure 11.
- (4) **Internal Landscaped Islands.** Internal parking rows should provide landscaped islands at either end of the rows of parking, as well as at intermediate locations so that there are not more than 25 continuous parking spaces in a row without a landscaped island. Internal landscape islands continued: The islands shall be equal in length to the rows and at least 9 feet wide, or of equivalent size if an irregular shape is necessary. Islands shall include at least 2 trees with shrubs, flowers, grass or other plantings so that not more than 50% of the groundcover is mulch or gravel. Figures 12, 13.
- (5) **Side and Rear Yard Parking Screening.** Parking areas abutting a side or rear yard to a different commercial or residential property shall provide screening in the form of both deciduous and coniferous trees, flowers, shrubs and/or a low wall or fence to screen the parking area from the adjacent property except in places where

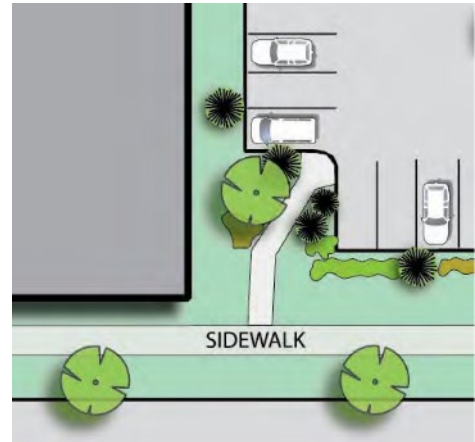


Figure 11. Frontage Perimeter Bulb-Out.



Figure 12. Internal landscaped islands.

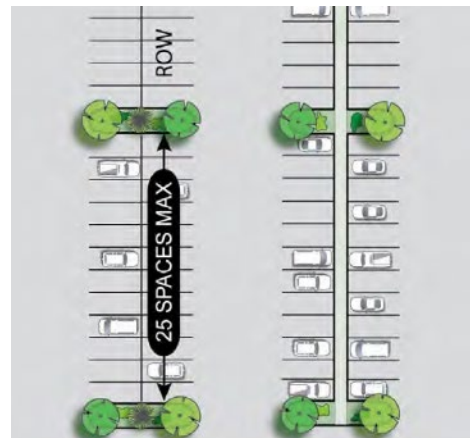


Figure 13. Internal landscaped islands.

adjacent parking lots connect as part of a shared parking arrangement. Refer to the **Schedule 1 Permitted Street & Landscaping Trees**, for a list of preferred tree species. Figure 14.

E. Pedestrian access

- (1) **Frontage Sidewalks.** Public sidewalks shall be provided along the full width of all public street frontages, a minimum of 5 feet wide and constructed of concrete. Concrete sidewalks shall be continued across all driveway curbcuts to provide an uninterrupted pedestrian path and visual cue for motorists to watch for people. Where curbs are provided, sidewalk ramps shall be installed to maintain a fully ADA accessible route across the driveway.
- (2) **Internal Pedestrian Sidewalks.** Dedicated pedestrian paths should be provided which connect public sidewalks and parking areas to building entries, adjacent properties and other points of interest, with adequate landscaping on either side of the path where appropriate. Figure 15.
- (3) **Dedicated Pedestrian Paths.** Larger parking lot areas with significant distances to and from the building are strongly encouraged to provide a dedicated pedestrian path through the parking lot which provides a reasonable protected route through the parking lot. Figure 16.
- (4) **Internal Crosswalks.** Pedestrian connections through parking lots shall be provided with marked crosswalks. Figures 15 - 18.



Figure 14. Side and rear yard parking screening.



Figure 15. Internal pedestrian sidewalk.

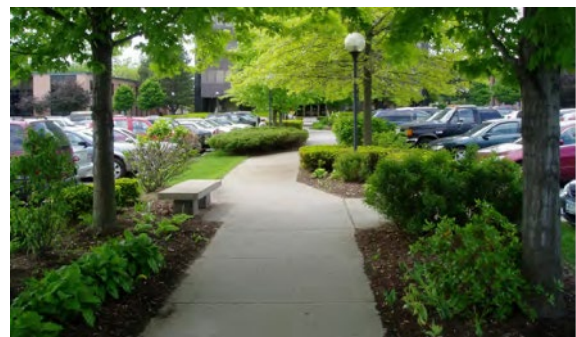


Figure 16. Dedicated pedestrian path. Dedicated pedestrian paths through a parking lot create a more attractive and safer shopping destination, giving people a safe route through the parking area.



Figure 17 Internal parking lot crosswalk.



Figure 18. Parking lot pedestrian paths. Another example of a dedicated pedestrian path through a large parking area.

- (5) Alternative Material. Asphalt may be used for internal site circulation and other informal pedestrian connections.

F. Vehicle access

- (1) Driveway Curbscuts. Driveway access from a public street should be limited to no more than one curb cut per street frontage where possible. Driveway widths should be limited to no more than 12 feet wide per vehicle lane (12 feet wide for one-way traffic, 24 feet wide for two-way traffic) to minimize pedestrian crossing distance unless the Village Board determines that wider driveway width is necessary for truck turning radius. All pedestrian sidewalks shall be continued across the full width of driveways.
- (2) Shared Driveways. The use of shared driveways between two or more properties is strongly encouraged to help reduce the number of curbscuts on primary roads and improve vehicle safety. The number of vehicle curbcut driveways into and out of a site should be minimized. Shared access and parking agreements between adjoining property owners are encouraged.

G. Stormwater management.

- (1) Required landscaping areas on site are encouraged to be utilized as integrated stormwater management areas such as recessed parking islands (Figures 19), street tree beds (Figure 20, 21), rain gardens (Figure 21), or retention ponds (Figures 19, 23, 24) which capture rainwater on the site, provided they are adequately landscaped and designed to capture the flow of on-site stormwater.
- (2) Stone Mulch. Stone mulch is permitted to be used in parking island landscaping provided it is used in conjunction with a designed stormwater system where organic mulch would otherwise wash away.

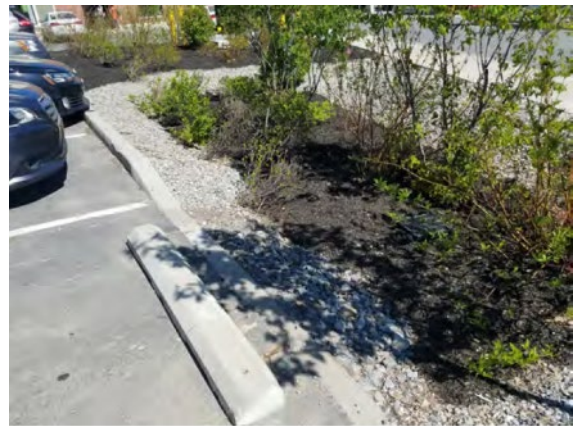


Figure 19. Stormwater retention. Use of creative stormwater retention designs can allow for landscaped areas to absorb rainwater locally and filter it without it having to be piped underground, where it can pollute the local waterways. This design has a lowered curb edge which allows the rainwater to flow down into the lowered planting bed where it can be absorbed by the ground and provides water for the plants. A hidden overflow pipe allows excess water to escape to prevent overflow.

H. Equipment screening

- (1) All off-street loading, service, dumpster or mechanical equipment areas shall be located in the rear or side of the building and screened from view from the public right-of way. Properties with multiple dumpsters shall consolidate their location to a centralized pickup area

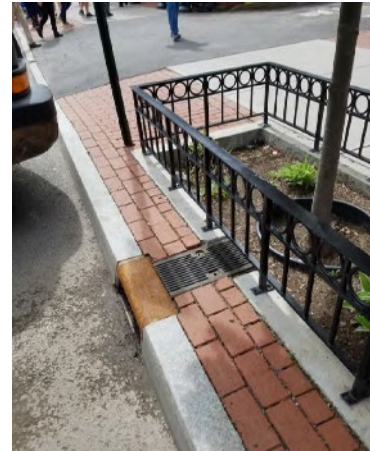


Figure 20. Stormwater retention. This example of stormwater retention captures water from the street and stores it in a planting bed where it waters the plants and trees.



Figure 22. Stormwater retention in a parking island.



Figure 21. Stormwater retention with rain garden.



Figure 23. Stormwater retention pond in a housing development designed to look like a natural pond.



Figure 24. Stormwater retention pond at a commercial bank designed to look like a natural area.

- (2) Dumpster areas and mechanical equipment shall be screened from view by a wall of landscaping or screening walls on at least three sides which is equal or more in height to the equipment being screened. Materials used should match or complement the exterior materials of the primary building. Figures 25-28.



Figure 25. Screening of mechanical equipment.

- (3) Chain-link fences shall not be used for screening purposes.

- (4) Parking Garages. Parking garages facing a public street or pedestrian sidewalk area shall provide landscape screening along the frontage which consists of at least one ornamental tree between structural supports, as well as low shrub plantings not less than three feet in height and an ornamental fence or decorative wall not less than 4 feet in height around the perimeter.



Figure 26. Screening of mechanical equipment using landscaping.



Figure 27. Screening of mechanical equipment.



Figure 28. Screening of mechanical equipment.

I. Building massing

- (1) General. Overall building massing should be broken up into smaller, discrete parts where possible, especially for larger structures, to avoid the appearance of one monolithic structure and to provide visual interest. Figures 29, 30.
- (2) Corners. Corner conditions and building entry areas are encouraged as locations where the building mass should be emphasized or highlighted.
- (3) Avoid Blank Wall Areas. No more than 50 feet of a front facade and facades facing pedestrian areas shall be devoid of windows, doors or other decorative features. Any remaining exterior wall areas without any windows or doors should be screened with the use of adjacent landscaping such as shrubs and trees to help soften the architecture.
- (4) Facade Rhythm. Building facades should make use of a repeating pattern, expressing the structural bays of the building within, with the use of features such as repeating window groups, columns, or other features which help to create a cohesive and attractive design.
- (5) Long Building Facades. Long building facades, which may stretch for a hundred feet or more, shall break up their design massing along public frontages by providing significant articulations in facade depth or height at regular intervals. These can be achieved with facade bump-outs, recesses, roof dormers, changes in materials or similar features. Figure 31.
- (6) Changes in facade depth or height should be visually strong, measuring between 10 inches to several feet. Depth or



Figure 29. Attractive Building Massing. Simple shapes which are well defined and differentiated with changes in facade depth are encouraged.



Figure 30. Unattractive Building Massing. Attempting to break up the scale of massing of a facade with many little shapes and small depth changes can create a cheap appearance.



Figure 31. Building massing. This long building is nicely broken up with strong depth fluctuations in the facade and roofline which help to identify individual apartment entrances and create balconies.

height changes of only a few inches give the facade an inauthentic architectural appearance and result in unusable space. Such designs should be avoided.

- (7) When using different materials to help break up the facade, avoid the appearance of several different building facades stuck together, which can give the building a low-quality and disorderly appearance. Building façade elements should be sensitive to local context and complementary in nature.
- (8) Columns / Posts. The proportion of structural elements such as columns, posts or pilasters along a facade should be appropriate to the weight they appear to be carrying so as not to appear weak or thin.

J. Roof design

- (1) General. Variations in rooflines should be used to add character to smaller buildings and reduce the massive scale of larger buildings.
 - (a) Features such as dormers, eaves, parapets, and sloped rooflines should be integrated into the overall design of the structure.
 - (b) Flat roof structures shall be capped by an articulated parapet design which provides a noticeable "cap" to the building.
 - (c) The use of green or living roofs are encouraged. These guidelines and standards should not be construed to preclude the use of innovative green technologies.
- (2) Roof-Mounted Mechanical Equipment. Mechanical equipment such as HVAC heating and cooling installed on rooftops shall be fully screened from view from adjacent public right of ways, properties, and pedestrian walkways with the use of parapets or sloped parapet roof designs. This screening requirement shall not apply to solar panels installed parallel or flush with the roof surface.

K. Windows, doors & entrances

- (1) General. Each principal building on the site should have a clearly defined, highly visible public entrance which is visible from the public street. The primary entry should be highlighted with the use of architectural treatments such as a recess in the façade, an overhang, canopy or awning, raised roofline or parapet, or similar method to highlight its location. Where applicable, a public entrance shall have a direct pedestrian connection to the street.
- (2) Ground Floor Commercial Areas. The ground floor areas of a facade, especially along pedestrian sidewalks, should exhibit the highest levels of articulation and transparency, with larger window openings and changes in facade depth, especially around entry doors. A minimum of approximately 50% of the ground level pedestrian facade area should consist of transparent window glass.
- (3) Upper Floors. The upper story areas of the facade should consist of approximately a minimum of 20% transparent window glass.

- (4) Windowless Areas. Windowless areas facing public sidewalks shall not exceed 30 feet in width per frontage. (Windowless wall area limitations do not apply to facades facing an alley, service drive or nonpublic street.)

- (5) Door Coverings. Public entry and exit doors shall be designed with roofs, canopies or facade recesses to reduce the fall of rain, snow or ice on pedestrians.

L. Exterior materials & colors

- (1) General. High-quality, durable materials such as brick, stone, wood, and concrete are encouraged. The use of corporate chain architectural styles should be avoided. Figure 32.



Figure 32. Dunkin Donuts, Malta NY. After the former franchise building burned down, Dunkin Donuts rebuilt their flagship store and bakery to meet the design standards of the town.

- (2) Colors. Exterior building material colors should typically be a natural, subtle, muted shade and of low-reflectance. Brighter, more vibrant colors such as bright red or yellow should generally be reserved for minor accents and highlights only. Examples of colors which are likely to be incompatible include basic primary colors, neon, fluorescent or those which are highly reflective or metallic.

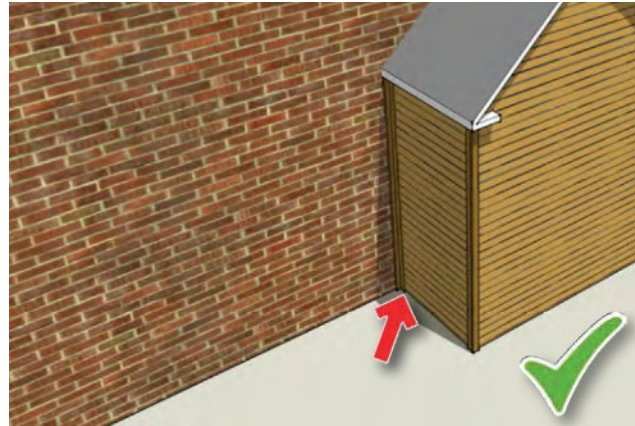


Figure 33. Material transition at inside corner. Changes in facade materials should occur at an "inside edge" (red arrow) to provide a

- (3) Material & Color Changes. Changes from one facade material or color to another shall occur at a "hard-edge" or bump out transition in the facade that gives the material a surface to terminate into. Material or color transitions along the horizontal direction should occur at an "inside corner". Figures 33, 34.

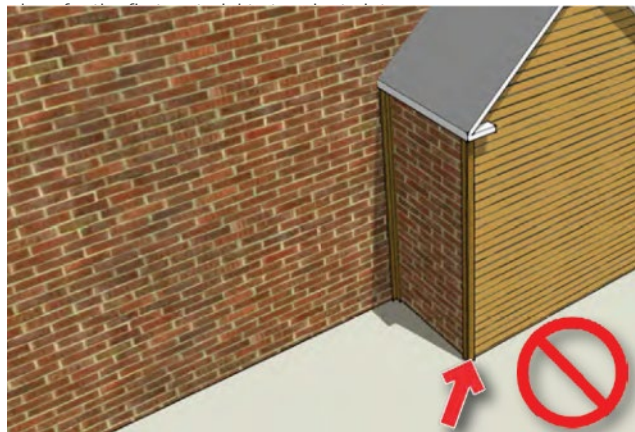


Figure 34. Material transition at outside corner. Changes in facade materials at an "outside edge" are discouraged as they give the facade a thin and cheap appearance.

- (4) Primary vs. Secondary Materials. Facades with an overabundance of different materials or colors are discouraged. When using more than one facade material or color, one should be used as the dominant "primary" theme, with the others used more sparingly as "secondary" materials or colors to accentuate the design. Avoid using unfinished masonry units or

synthetic stucco, especially at entrances and areas which receive up-close scrutiny from pedestrians.

M. Facade appurtenances

- (1) General. Facade appurtenances, such as porches, awnings, balconies, stoops or galleries are encouraged to be used to give building facades shade, scale and more visual interest, especially along street frontages.
- (2) Awnings. All awnings shall provide a minimum clearance above the sidewalk of at least eight feet and should be a minimum depth of four feet.
- (3) Balconies. All balconies shall provide a minimum clearance above the sidewalk of at least 12 feet and should be a minimum depth of four feet.
- (4) Porches. Porches on a front facade shall be a minimum of six feet in depth clear from the face of the facade to the railing and shall extend no less than 50% of the width of the facade frontage.
- (5) Stoeps. Stoeps shall be no more than six feet deep, not including steps. Stoeps may include an overhead roof or canopy above, but shall not be enclosed on the sides.

(N) Exterior lighting

- (1) General. All exterior lighting shall provide for full cutoff, downward facing fixtures which prevent any light emitted above the 90 degree horizontal to minimize night sky pollution, glare and spillover onto adjacent properties, unless otherwise noted below. Figure 35.



Figure 35. Full cutoff, downward facing light fixture. This parking lot lamp provides light powered by solar cells on the top of the fixture.

- (2) Light Quality and Color. Exterior lighting is recommended to be provided from Induction or L.E.D. (Light Emitting Diode) fixtures to provide quality light while minimizing energy use, provided the color temperature of the light is between 2500 and 3800 kelvin. Mercury vapor and low pressure sodium lamps are not recommended.
- (3) Light Intensity. Exterior lighting for parking lots and pedestrian areas is encouraged to remain at the lowest acceptable foot-candle levels wherever possible to reduce energy use, glare, light trespass and night sky pollution.
 - (a) The maximum light level of any exterior fixture shall not exceed 0.5 maintained foot-candles measured at the property line of an adjacent property.

- (b) The maximum light level of any exterior fixture shall not exceed 2.0 maintained foot-candles measured at the property line of an adjacent public right-of-way.
- (c) Lighting level measurements shall be made at ground level, with the light sensor of the meter pointing upwards.
- (4) Parking Lot Lighting. Light fixtures located associated with a parking lot shall not exceed 18 feet in height and shall be spaced as required to provide necessary lighting.
- (5) Pedestrian Walkway Lighting. Light fixtures located along pedestrian walkways or paths internal to the site shall not exceed 12 feet in height.
- (6) Facade Lighting. Decorative facade lighting, where used, shall only direct the light downward on the facade. Upward facing facade lighting shall only be permitted in instances where it is installed underneath a canopy, porch or roof overhang which will capture the upward light spill.
- (7) Security Lighting. Security lighting is encouraged to be provided from regular pedestrian fixtures where possible, especially in areas visible from a public way. The Village Board of Trustees, in coordination with law enforcement officials, reserves the right to require the outside perimeter of any building be sufficiently illuminated to facilitate surveillance.
- (8) Vehicular Canopy Lighting. Light fixtures located underneath vehicle canopies, such as gas station pumps or drive-thru areas, shall be fully recessed or flush within the underside surface to conceal the illumination source and prevent glare. As an alternative, the underside of the canopy may be reflectively illuminated by fixtures facing upwards, provided that there is no light spillover outside of the canopy surface. Figure 36.
- (8) Landscaping Lights. Decorative landscaping lighting shall be designed to direct the lighting downward into the planted areas whenever possible. Upward facing landscape lights may be permitted, provided they are low voltage systems which are equipped with automatic switching to turn off the lights no later than one hour after the site is closed to the public, or 11pm, whichever is earlier.
- (9) Holiday or Event Lighting. None of the provisions above shall be construed to limit the temporary use of decorative lights for holidays or special events.



Figure 36. Gas station canopy light. This recessed light in a gas station canopy is ideal because it focuses the light downward and reduces glare to passing motorists.

- (10) Street Lighting. When new pedestrian lights are proposed, the Village's preferred lamp post and cross arm shall be required. Refer to **Article 6, Complete Streets** for further guidance on work within the NYS right-of-way. **Refer to Schedule 2 Permitted Pedestrian Lights.**

O. Site amenities

- (1) General. All new development or redevelopment projects which require site plan review should provide common site amenities such as benches, bicycle racks, trash and recycling receptacles or public transit shelters commensurate with the size of the development and anticipated public use.
- (2) Bicycle Parking. Refer to § 169-39 Bicycle Parking Schedule for the recommended number and type of bicycle parking amenities based on the proposed land use.
- (3) Electric vehicle charging stations (EVCS). Refer to **§ 169-46 Electric Vehicle Charging Stations** for applicable requirements.

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ARTICLE 4 COMMERCIAL AND INDUSTRIAL DISTRICTS

§ 169-24 Business Districts

- A. The Business District (B) is a small district located off Menands Rd./Rt. 378 containing office and service uses in a park-like setting.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Parking Lot Accessory
 - (2) Public Facility, Minor
 - (3) Electric Vehicle Charging Stations
 - (4) Tier 1 Solar Energy System Roof-Mounted & Building Integrated
 - (5) Farmer's Market
 - (6) Accessory Structures
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Community & Government Use
 - (2) Cultural Venue
 - (3) Community Garden
 - (4) Bakery
 - (5) Banks, Financial Institutions
 - (6) Barbershops & Beauty Parlors
 - (7) Commercial Greenhouse
 - (8) Business & Professional Office
 - (9) Radio & Television Station
 - (10) Retail &/or Service Establishment
 - (11) Tier 1 Solar Energy System Ground-Mounted
 - (12) Outdoor Café
 - (13) Drive-Thru Establishment
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
 - (1) Hotels & Motels
 - (2) Club, Civic, Social/Fraternal Organization

- (3) Cultural Venue
 - (4) Religious Use
 - (5) Bowling Alleys
 - (6) Nursing Homes
 - (7) Parking Lot, Accessory-2
 - (8) Performing Arts Center
 - (9) Recreational Facility, Commercial
 - (10) Restaurants
 - (11) Telephone Exchange or Switching Stations
- E. Maximum residential density: 1 dwelling unit per 10,000 square feet.
- F. Minimum lot dimensions.
- (1) Minimum lot size: 10,000 square feet.
 - (2) Minimum lot width: 75 feet.
 - (3) Minimum lot depth: 90 feet.
 - (4) Maximum lot coverage: 40%.
- G. Minimum yard setback requirements.
- (1) Front yard setback: 10 feet.
 - (2) Rear yard setback: 15 feet.
 - (3) Side yard setback: 10 feet.
- H. Building height.
- (1) Number of stories: 3-1/2 stories.
 - (2) Maximum height: 40 feet.

§ 169-25 Light Industrial

- A. The Light Industrial (LI) District is intended to provide appropriate locations for manufacturing, production, processing, fabrication, assembly, treatment, repair, wholesale, warehousing, and research and development, among other compatible uses. This district is primarily for selective industries whose activities do not adversely impact the environment or quality of life of Village residents and visitors or create an impact which is injurious to the public health, safety or general welfare of Village residents and visitors.

- B. Permitted uses. The following uses are permitted as of right.
- (1) Accessory Structure
 - (2) Farmers' Market
 - (3) Parking Lot, Accessory-1
 - (4) Public Facility, Minor
 - (5) Tier 1 Solar Energy System, Roof-Mounted & Building-Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
- (1) Bakery
 - (2) Bakery, Wholesale
 - (3) Banks, Financial Institutions
 - (4) Barbershops & Beauty Parlors
 - (5) Business and Professional Office
 - (6) Commercial Greenhouse
 - (7) Community Garden
 - (8) Public Parks & Playgrounds
 - (9) Radio & Television Stations
 - (10) Restaurants
 - (11) Retail and/or Service Establishment
 - (12) Supermarket
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
- (1) Animal Daycare
 - (2) Bowling Alleys
 - (3) Car Wash
 - (4) Communications Tower
 - (5) Community & Government Use
 - (6) Club, Civic, Social/Fraternal Organization
 - (7) Drive-Thru Services
 - (8) Hotels & Motels

- (9) Light Industrial & Manufacturing Facilities
- (10) Medical Facility, 20,000 SF and Large-Scale
- (11) Mixed-Use
- (12) Motor Vehicle Repair Shop
- (13) Motor Vehicle Sales and Service
- (14) Nursing Homes
- (15) Outdoor & Storage Facilities Accessory to Light Manufacturing, Light Industry, & Research & Development Facilities
- (16) Parking Lot, Accessory-2
- (17) Performing Arts Center
- (18) Private or Public Golf Courses or Driving Ranges and/or Country Clubs
- (19) Public or Private Schools
- (20) Recreational Facilities
- (21) Recreational Facility, Commercial
- (22) Religious Use
- (23) Research & Development Facilities
- (24) Telephone Exchange or Switching Stations
- (25) Tier 2 Solar Energy System
- (26) Transit Facilities
- (27) Utility Substations
- (28) Veterinary Facility
- (29) Warehouse & Warehousing
- (30) Wholesale Business, Small-Scale and Large-Scale

E. Minimum lot dimensions.

- (1) Minimum lot size: 15,000 square feet.
- (2) Minimum lot width: 75 feet.
- (3) Minimum lot depth: 90 feet.
- (4) Maximum lot coverage: 40%.

G. Minimum yard setback requirements.

- (1) Front yard setback: 20 feet.
 - (2) Rear yard setback: 15 feet.
 - (3) Side yard setback: 10 feet.
- H. Building height.
- (1) Number of stories: 6 stories.
 - (2) Maximum height: 70 feet.

§ 169-26 Heavy Industrial

- A. The Heavy Industrial (HI) District is intended to provide appropriate locations for basic processing and manufacturing of materials or products predominantly from extracted or raw materials that potentially involve hazardous conditions with significant external effects, or which pose risks due to the involvement of explosives, poisons, pesticides, herbicides, or other hazardous materials in manufacturing or other process.
- B. Permitted uses. The following uses are permitted as of right.
- (1) Accessory Structures
 - (2) Drive-Thru Establishment
 - (3) Electric Vehicle Charging Stations
 - (4) Parking Lot, Accessory-1
 - (5) Public Facility, Minor
 - (6) Tier 1 Solar Energy System, Roof-Mounted & Building-Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
- (1) Animal Boarding
 - (2) Animal Daycare
 - (3) Animal Shelter
 - (4) Bakery, Wholesale
 - (5) Banks, Financial Institutions
 - (6) Car wash
 - (7) Commercial Greenhouse
 - (8) Community & Government Use
 - (9) Light Industry & Manufacturing Facilities

- (10) Motor Vehicle Fuel Sales
 - (11) Motor Vehicle Repair Shop
 - (12) Motor Vehicle Sales and Service
 - (13) Office & Storage Facilities Accessory to Manufacturing, Light Industry, Assembly, Research & Development Facilities
 - (14) Radio & Television Stations
 - (15) Tier 2 Solar Energy System
 - (16) Transit Facility
 - (17) Veterinary Facility
 - (18) Warehouse & Warehousing
 - (19) Wholesale Business, Small-Scale and Large-Scale
- D. Special uses. The following uses are authorized by special use permit pursuant to this chapter.
- (1) Adult-Oriented Businesses
 - (2) Bowling Alleys
 - (3) Business & Professional Office
 - (4) Club, Civic, Social/Fraternal Organization
 - (5) Heavy Industry & Manufacturing Facilities
 - (6) Medical Facility, Large Scale
 - (7) Nursing Homes
 - (8) Parking Lot, Commercial'
 - (9) Parking Lot, Public
 - (10) Private or Public Golf Courses or Driving Ranges and/or Country Clubs
 - (11) Public Facility, Major
 - (12) Public Parks & Playgrounds
 - (13) Recreational Facility, Commercial
 - (14) Research & Development Facilities
 - (15) Restaurants
 - (16) Retail and/or Service Establishment
 - (17) Self-Storage Facilities

- (18) Truck Driving School
- (19) Utility Substations
- (20) Tier 3 Solar Energy Systems
- (21) Telephone Exchange or Switching Stations
- E. Minimum lot dimensions.
 - (1) Minimum lot size: 20,000 square feet.
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Maximum lot coverage: 40%.
- G. Minimum yard setback requirements.
 - (1) Front yard setback: 20 feet.
 - (2) Rear yard setback: 15 feet.
 - (3) Side yard setback: 10 feet.
- H. Building height.
 - (1) Number of stories: 6 stories.
 - (2) Maximum height: 70 feet.

ARTICLE 5 OPEN SPACE DISTRICTS

§ 169-27 Cemetery

- A. The Cemetery (C) District is the sole location for the operation of a cemetery within the Village.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structure
 - (2) Cemeteries
 - (3) Electric Vehicle Charging Station
 - (4) Parking Lot, Accessory-1
 - (5) Public Facility, Minor
 - (6) Tier 1 Solar Energy System, Roof-Mounted & Building Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:

- (1) Tier 2 Solar Energy System, Ground-mounted.
- D. Special Use. The following uses are authorized by Special Use Permit pursuant to this Chapter.
 - (1) Parking Lot, Accessory-2
- E. Minimum lot dimensions.
 - (1) Minimum lot size: 10 acres.
 - (2) Minimum lot width: 300 feet.
 - (3) Minimum lot depth: 300 feet.
 - (4) Maximum lot coverage: N/A.
- F. Minimum yard setback requirements.
 - (1) Front yard setback: 50 feet.
 - (2) Rear yard setback: 50 feet.
 - (3) Side yard setback: 50 feet.
- G. Building height.
 - (1) Number of stories: N/A.
 - (2) Maximum height: 35 feet..

§ 169-28 Land Conservation

- A. The Land Conservation (LC) District is intended to preserve, protect, and conserve lands for open space and recreational purposes.
- B. Permitted uses. The following uses are permitted as of right.
 - (1) Accessory Structure
 - (2) Community Garden
 - (3) Electric Vehicle Charging Station Public Parks and Playground
 - (4) Parking lot, Accessory-1
 - (5) Public Utility, Minor
 - (6) Tier 1 Solar Energy System, Roof-Mounted and Building Integrated
- C. Site plan uses. The following uses are authorized by site plan approval pursuant to this chapter:
 - (1) Tier 2 Solar Energy System, Ground-Mounted.

- D. Special Uses. The following uses are authorized by special use permit approval pursuant to this chapter.
 - (1) Parking Lot, Accessory-2.
- E. Minimum lot dimensions.
 - (1) Minimum lot size: 5 acres.
 - (2) Minimum lot width: 500 feet.
 - (3) Minimum lot depth: 250 feet.
 - (4) Maximum lot coverage: N/A
- F. Minimum yard setback requirements.
 - (1) Front yard setback: N/A
 - (2) Rear yard setback: N/A
 - (3) Side yard setback: N/A
- G. Building height.
 - (1) Number of stories: N/A
 - (2) Maximum height: 35 Feet.

ARTICLE 6 COMPLETE STREETS REGULATIONS

§ 169-29 Intent and Applicability

- A. Intent. The standards outlined in this section are intended to:
 - (1) Create complete streets that address all modes of travel, including people walking, biking, taking transit, or driving.
 - (2) Address all features of the right-of-way, including but not limited to sidewalks, landscaped buffer areas, parking lanes, traffic lanes, bicycle lanes, and street furniture.
 - (3) Provide adequate access for people walking, biking, and driving.
 - (4) Create streets that are appropriate for their surroundings in residential, commercial, mixed-use, or industrial districts and designed to encourage travel at appropriate volumes and safe speeds.
 - (5) Create streets and public rights-of-way that result in reduced quantity of stormwater runoff, a diminished heat island effect, and improve quality of stormwater runoff.
 - (6) Support road types and infrastructure design that increases sustainable transportation options, namely pedestrian traffic, bicycle traffic, and transit use which would in turn decrease the carbon footprint of the Village.

- (7) Develop stronger connections between Village and State rights-of-way and the buildings and structures which line them.
- B. Applicability. The standards in this Subsection apply to all new streets, the substantial improvement (including milling and repaving) of an entire block length of a roadway or sidewalk of an existing street, and for public or private development projects that involve improvements within the right-of-way, unless Village Board of Trustees finds that applying this Chapter in a particular instance is either practically infeasible or detrimental to the safety of people who walk or bike and these detrimental effects cannot be mitigated.

§ 169-30 General Requirements

- A. General Requirements.
 - (1) All street improvements made in accordance with this Chapter may be located within and outside the public right-of-way.
 - (2) Street Types. All streets shall match one of the following street types, whether publicly dedicated or privately held.
 - (a) Community Commercial.
 - (b) Neighborhood Mixed-Use.
 - (c) Neighborhood/Cross-town Connector.
 - (d) Neighborhood Street.
 - (e) Industrial.
 - (f) Public Use. All streets shall be available for public use at all times, except gated and private streets approved by the Village Board.
 - (3) Work within the NYS right-of-way. New York State DOT owns and operates Route 32. Any work within the NYS right-of-way requires a highway work permit. Please see **Appendix 1: Commercial Access Highway Work Permit Application and Checklist**, for more information on highway work permits. As the Village of Menands pursues Complete Streets investments within the site plan approval process for amenities such as sidewalks, landscaping, lighting, and bicycle racks, the Village will be required to work with NYSDOT to obtain the proper permits and agreements. Please see **Appendix 2: Highway Work Permit Application for Utility Work**, for more information on NYSDOT's permit and agreement processes.
- B. Street Construction Specifications. Any construction related to streets shall follow these regulations and the Department of Public Works construction specific standards, which shall be consistent with these regulations. The principles contained in the [Urban Street Design Guide of the National Association of City Transportation Officials published in 2013](#), as amended, shall serve as a guide for these regulations and decisions made pursuant thereto.

C. Selection of Street Types

- (1) Selection of Street Types for New Streets. For new streets, the Village Board shall select the applicable street type as part of the review process for an overall development or as part of any decision regarding streets.
- (2) Selection of Street Types for Existing Streets. When an existing street becomes subject to this section, the Village Board, in consultation with the Department of Public Works and NYSDOT where applicable, shall select the applicable street type for the design of the street.
- (3) Selection Criteria. When selecting the street type for a new or existing street, the Village Board shall take into account the following factors:
 - (a) The intent of the street types.
 - (b) The street requirements for the street types.
 - (c) The most recent average daily traffic counts available to the Village.
 - (d) Existing and projected intersection counts for pedestrian and bicyclists, if available.
 - (e) Existing and projected on-street parking utilization and demand data, if available.
 - (f) Existing land uses and zoning districts on adjacent parcels.

F. Streetscape Design Submittal

- (1) Once a street type has been selected, the Village or a private property owner, as applicable, must develop a streetscape design to be approved by the Code Enforcement Officer in consultation with the Village Board, the Department of Public Works, and where applicable, NYSDOT, which includes the following elements.
 - (a) Landscape Zone or Furnishings Zone. Refer to the street type requirements for the street to determine which type or buffer area is required or allowed.
 - (b) Street Trees. Tree planting and installation shall be guided by 169-23C(7) of this Chapter.
 - (c) Sidewalk Pavement Design. Sidewalk paving materials and pattern shall be identified in the submittal.
 - (d) Street Furnishings. For buildings with commercial or mixed-uses, benches, seat walls, planters, planter fences, trash receptacles, and bicycle racks shall be specified, and quantities and locations listed.
 - (e) Landscape Design. Ground plane vegetation shall be designated for any landscaped bed areas, planter areas, and tree wells.
 - (f) Lighting. Lighting in the right-of-way shall be specified, and locations and quantities noted. Installation shall be coordinated with the Village Board and Department of Public Works and the light fixture shall be consistent with the

Village's preferred light fixture, refer to **Schedule 2 Permitted Pedestrian Street Lights**.

- (g) Identity Elements. Any other elements designed to establish the identity of each street, such as banners, pavement markings, way-finding, artwork, or signage, shall be included in the streetscape design submission.
- (h) Bicycle Facilities. Bicycle facilities shall be required pursuant to the requirements of **§ 169-39 (Bicycle Parking)**.

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G. Complete street details.

(1) Community Commercial Street

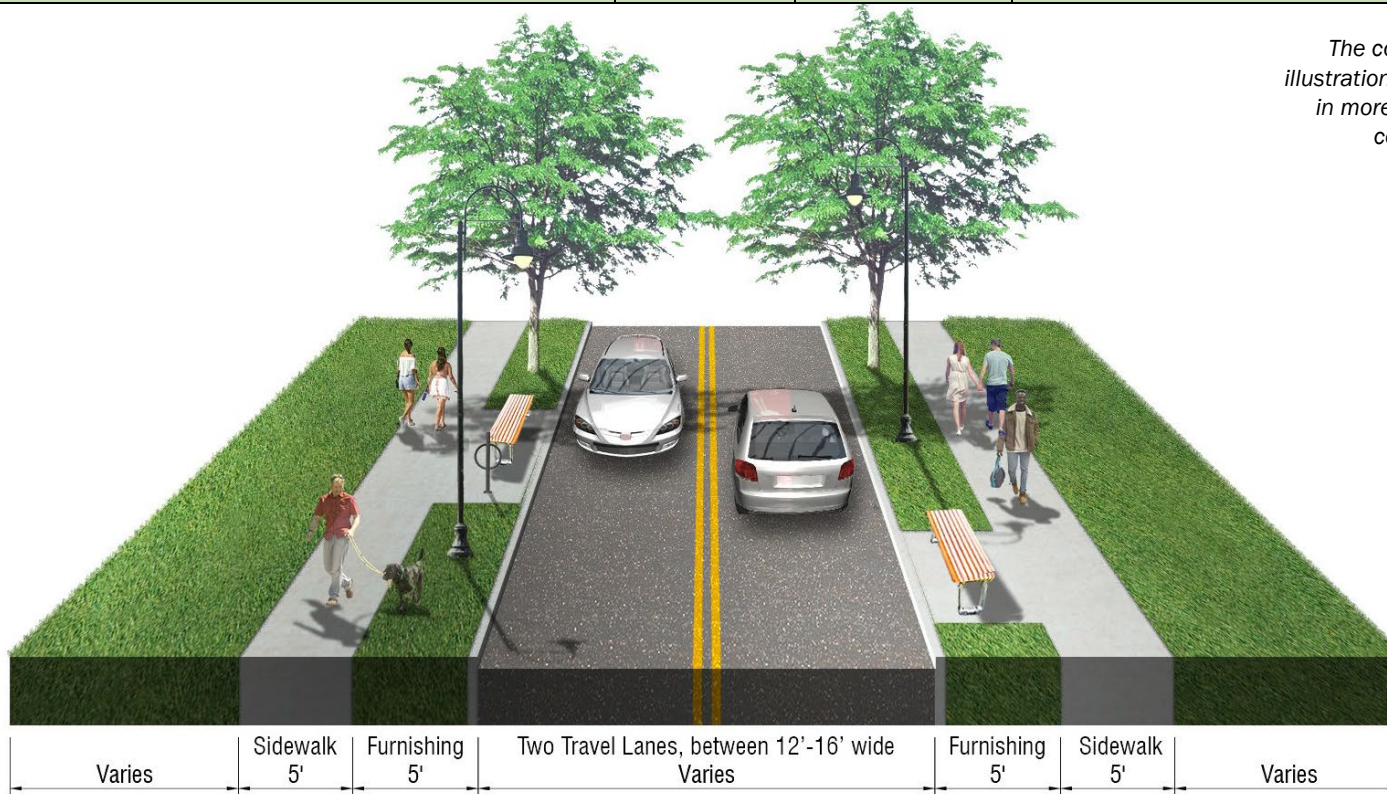
Description	Zoning Districts	Example Streets	Existing/Desired Characteristics
Broadway/Rt. 32 serves small to large-scale retail centers, light-industrial uses, mixed-uses, offices and business parks/ large-scale commercial buildings. There are nodes of high pedestrian traffic in the vicinity of BRT stations, bus stops, and multifamily housing. Bicycle lanes are provided along Broadway south of Riverview Center. Future improvements to Broadway should seek to enhance pedestrian and bicycle connectivity and safety, including expanded bicycle lanes. Additional street trees along both sides of Broadway are also strongly encouraged, along with pedestrian gathering spaces, including outdoor cafes and plazas.	- o BBD - o T5 - o R1 - o R2A - o R3 - o R4	o Broadway/ Rt. 32	- o Two travel lanes with a center turning lane north of Riverview, three to four lanes with turn lanes south of Riverview. - o Varying pedestrian volumes depending upon proximity to transit and multi-family housing. - o Major transit route/key transit stops. - o Long block lengths. - o Minimum 5ft. Sidewalks. - o Street trees within 5ft. planted buffer. - o Street furniture. - o Outdoor cafes, plazas, and other pedestrian gathering areas. - o Bicycle lanes. - o Bicycle racks in appropriate locations.



The concepts presented in this illustration may need to be investigated in more detail before any funding commitment is made.

(2) Neighborhood Mixed-Use Street

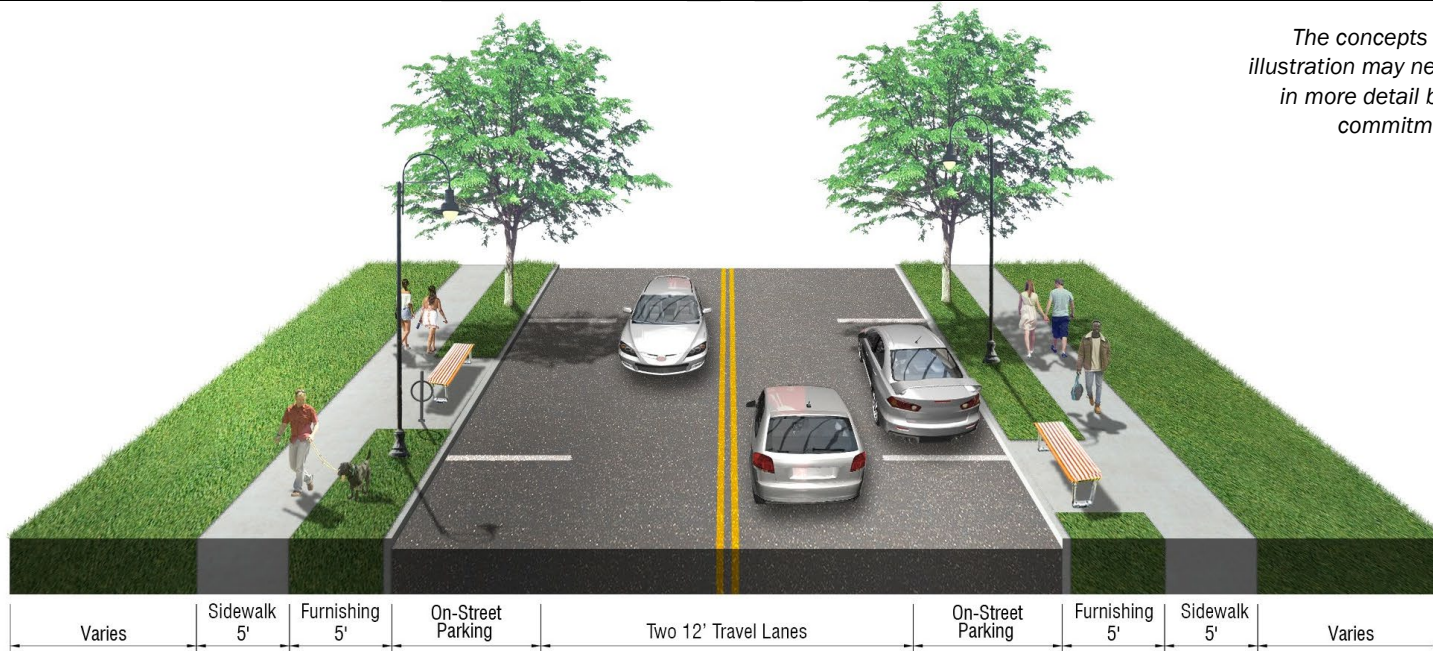
Description	Zoning Districts	Example Streets	Existing/Desired Characteristics
Neighborhood Mixed-Use streets serve a mix of residential and neighborhood commercial uses, with some serving as neighborhood connectors. Medium volumes of local and commuting traffic are present. There is a strong need to safely accommodate and encourage pedestrian activity as these streets provide continuous walking routes and connections to other parts of the Village and the City of Albany (Wolfert and N. Pearl). Future improvements and new Neighborhood Mixed-Use streets shall emphasize pedestrian safety, clear routes to key destinations and landscaped sidewalk buffers.	- o T4 - o T5	- o N. Pearl St - o Wolfert Ave (Rt. 32) - o Irving Pl - o Canal Rd (between Irving and E. Elmwood Rd. east of Broadway)	- o Two travel lanes. - o Predominantly residential with a mix of residential, neighborhood-scale commercial/office and service uses. - o Medium volumes of local traffic. - o Minimum 5ft. Sidewalks. - o Street trees within 5ft. planted buffer. - o Street furniture in key locations. - o Bicycle racks in appropriate locations. - o Seek to safely accommodate bicycle traffic.



The concepts presented in this illustration may need to be investigated in more detail before any funding commitment is made.

(3) Neighborhood/Cross-Town Connector Street

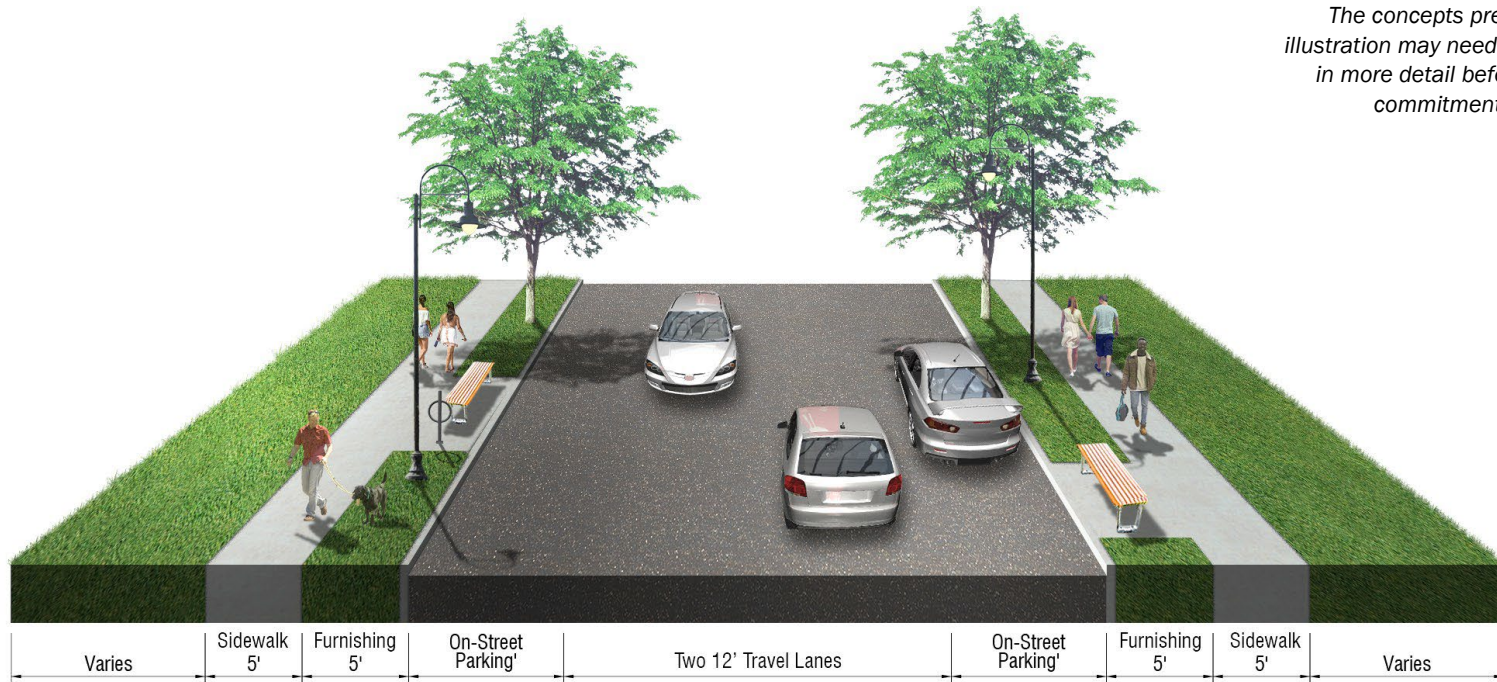
Description	Zoning Districts	Example Streets	Existing/Desired Characteristics
Neighborhood/Cross-Town Connectors serve primarily residential areas, although limited commercial uses may be located at intersections with Broadway. While some connector streets only link neighborhoods with Broadway (e.g., Brookside Ave and Tillinghast Ave), others provide cross-town routes with moderate to high motor vehicle volumes (e.g., Menands Rd and Wards Ln). Neighborhood/Cross-Town Connectors must safely accommodate and encourage pedestrian activity with sidewalks and highly visible crosswalks, as they link residential areas with commercial centers and other destinations. There may be sufficient residential density along certain streets, including Ward Ln, where bus stops could be provided in the future.	- o R - o R1 - o R2 - o R3 - o R4 - o BBD - o T4	- o Menands Rd - o Wards Ln - o Amsterdam Ave - o Van Rensselaer Blvd.	- o Two travel lanes, additional lanes on Van Rensselaer Blvd. - o May have long block lengths. - o Medium to high motor vehicle volumes. - o On-street parking may be permitted. - o Motor vehicle speeds may be higher than on neighborhood streets. - o Should serve transit in high density locations. - o Minimum 5ft. sidewalks should be provided. - o Street trees within a 5 ft. planting buffer where feasible. - o Occasional nodes of street furniture and bicycle racks in appropriate locations. - o Bicycle lanes where appropriate.



The concepts presented in this illustration may need to be investigated in more detail before any funding commitment is made.

(4) Neighborhood Street.

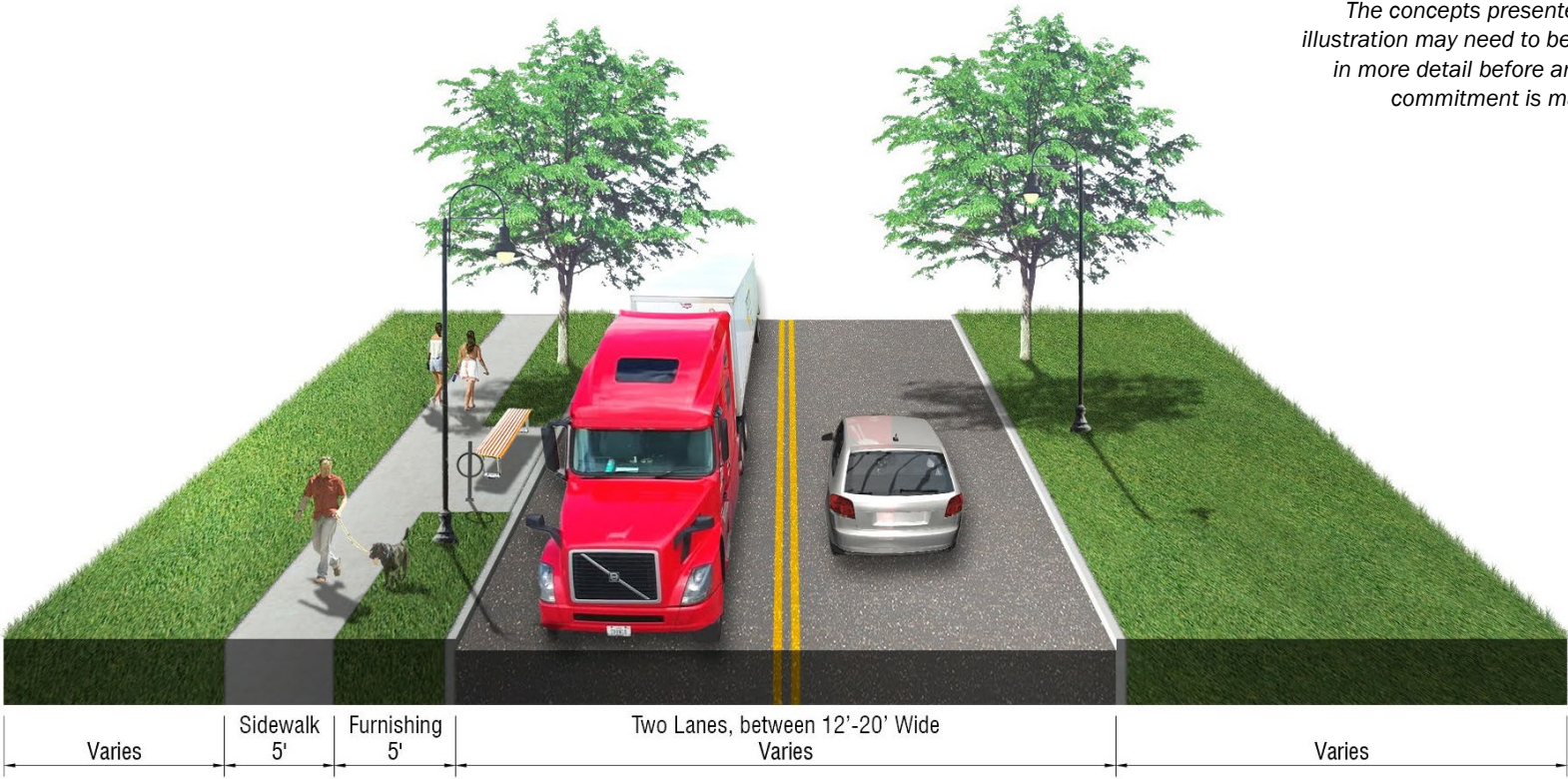
Description	Zoning Districts	Example Streets	Existing/Desired Characteristics
Neighborhood Streets serve residential areas with low volumes of motor vehicle traffic. Walking is common along these streets. Future new and improvements to existing Neighborhood Streets should focus on encouraging slow speeds, pedestrian safety, a consistent street tree canopy, and direct routes to nearby parks, transit, and other public facilities.	- o A - o R - o R1 - o R2 - o R2A - o R3 - o R3A - o R4	- o Louis Ave - o Harts Ln - o Glenwood Rd - o Clifford Rd - o Jones Ct - o Tillinghast Ave - o Villa Rd - o N and S Lyons Ave - o Brookside Ave - o Park Dr - o Scott Dr - o Park Ln - o Hendrick Ave	- o Two travel lanes (often without a centerline). - o Predominantly residential land uses. - o Relatively low motor vehicle speeds and volumes. - o Low to medium pedestrian activity. - o No transit present. - o Minimum 5ft. sidewalks and other forms of pedestrian connections recommended. - o Street trees within a 5 ft. planting buffer where feasible. - o Nodes of street furniture and bicycle racks in appropriate locations. - o Seek to safely accommodate bicycle traffic.



The concepts presented in this illustration may need to be investigated in more detail before any funding commitment is made.

(5) Industrial Street.

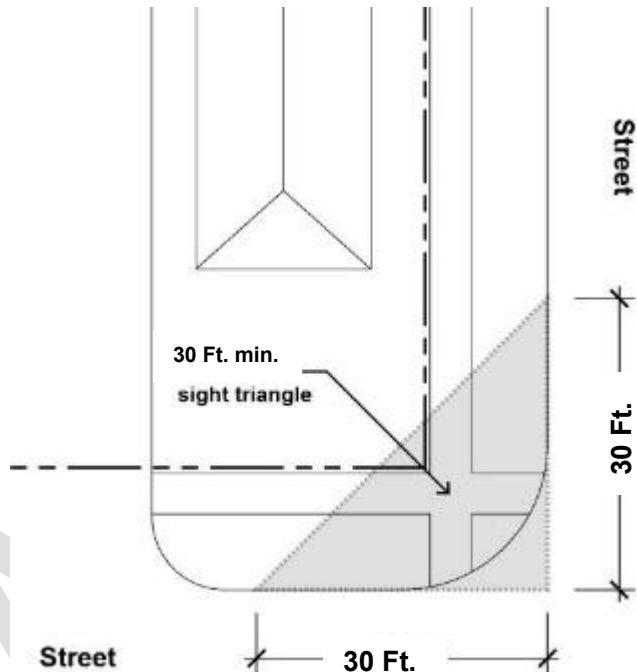
Description	Zoning Districts	Example Streets	Existing/Desired Characteristics
Industrial Streets serve light and heavy industrial, office, large commercial and a variety of smaller scale commercial uses. While there may be fewer pedestrians in these locations, new streets and improvements to existing should focus on safely accommodating pedestrians and providing greater separation from traffic, where possible.	- LI - HI - BBD - T5	- Oakland Ave - Canal Rd. S (north of E. Elmwood Rd) E. Elmwood Rd - Elmwood Rd - Simmons Ln - Erie Blvd	- Two travel lanes - Low pedestrian volumes - Buildings generally setback from curb - Dominated by car and truck traffic - Minimum 5 ft. sidewalks are encouraged. - Street trees within a 5ft. planting strip are encouraged with nodes of street furniture. - Transit facilities recommended where feasible. - Seek to safely accommodate bicycle traffic.



The concepts presented in this illustration may need to be investigated in more detail before any funding commitment is made.

ARTICLE 7 SUPPLEMENTAL LOT, AREA, AND STRUCTURE REGULATIONS**§ 169-31 Lot Regulations**

- A. Corner lots. Front yard minimums shall be required of both yards facing a street on a corner lot. At all street intersections, no obstruction to vision exceeding 30 inches in height above the established grade of the street at the property line shall be maintained within a triangle formed by the street lot lines of such lot and a line drawn between the points along such street lines 30 feet distant from their point of intersection. The only exceptions shall be existing buildings, structures, or trees where foliage shall be at least eight feet above grade.

**§ 169-32 Front Yard for Residential and Commercial and Industrial Districts**

- A. Except in the Broadway Corridor Form Based Districts, if 75% or more of the lots on one side of a continuous street had buildings thereon at the effective date of this chapter, the required setback from the street shall be determined by the average setback of the existing buildings.
- B. Where there were existing buildings at the time of the passage of this chapter on only one side of the street within a block, then the setback line of the vacant side shall be the same as the average setback line on the developed side of the street within the block. The foregoing rule, shall, however, in no case be applied to keep the street wall, walls or covered porches of the building further back from the street line than the minimum depth of the front yard so indicated.
- C. A building erected on a corner lot shall be required to comply with the setback line on each street front, except that in the case of a corner lot with a frontage of 50 feet or less, the Board of Trustees may change the setback line by resolution.

§ 169-33 Light Industrial and Business District Transition Yard Requirements.

- A. Front yard. When abutting a Residential District at a street line, the front yard for new development in a Light Industrial or Business District shall be equal to or greater than the front yard setback required for the applicable residential district.
- B. Side or rear yard. When abutting a Residential District at the side or rear yard, said yards for new development in a Light Industrial or Business District shall be at least equal in depth to that required in the applicable residential district. The Board of Trustees may require adequate screening and/or landscaping along the side or rear yard of the nonresidential lot may, in the event of construction on such adjoining nonresidential lot.

§ 169-34 Area.

- A. No lot area shall be so reduced or diminished that yards or other open spaces shall be smaller than prescribed for the applicable Zoning District unless otherwise specified in other sections of this chapter. No existing building shall be altered, enlarged, or rebuilt to exceed the maximum percentage of lot coverage as specified therein.

§ 169-34A Density Calculation.

- A. Residential density shall be calculated by dividing the total lot size by the minimum residential density indicated for the applicable Zoning District.
- B. Density rounding. For purposes of computing the maximum number of residential units allowed on a lot, any fraction shall be rounded down to the nearest whole number.

§ 169-35 Height.

- A. The height provisions of this chapter shall not apply to the erection of church spires, belfries, towers designed exclusively for ornamental purposes, flagstaffs, chimneys, flues, gas holders, water towers, standpipes, stage towers or scenery lofts. The height provisions of this chapter shall not apply to bulkheads, elevator enclosures or water tanks occupying in the aggregate less than 10% of the area of the roof or lot on which they are located.
- B. The height provisions of this chapter shall not prevent the erection of a church, school or public library to a height exceeding 35 feet in any Zoning District where such uses are allowed pursuant to this chapter.
- C. Nothing in this chapter shall prevent the erection above the height limit of a parapet, wall or cornice extending above such height limit not more than three feet nor the erection of a cornice beyond the street wall to an extent of not more than three feet.

§ 169-35A Minimum Width of Detached Single-Family Dwellings

- A. All detached single-family dwellings shall be a minimum of 18 feet in width.

§ 169-36 Accessory Structures.

- A. Single-family dwelling lots. There shall not be more than three accessory structures on a lot. An attached garage shall not be considered an accessory structure.
- B. Location of unattached accessory structures in Residence Districts.
- (1) An accessory structure shall not exceed 15 feet in height. The area of coverage of accessory structures shall not exceed 40% of the maximum lot coverage specific to the applicable Zoning District.
 - (2) No accessory structure shall be located less than 10 feet from the side or rear lot lines, unless otherwise regulated by this chapter.
 - (3) No accessory structure or use may be located in the front yard of any lot.
 - (4) For corner lots, the setback from the side street shall be the same for accessory structures as for principal buildings, unless otherwise regulated by this chapter.
- C. Accessory structures and uses on nonresidential lots. Unless otherwise specified, accessory structures and uses shall comply with front and side yard requirements for the principal structure to which they are accessory and shall not be located less than 10 feet from any rear property line.

ARTICLE 8 AUTOMOBILE AND BICYCLE PARKING**§ 169-37 Off-Street Parking.**

- A. In all districts, off-street parking spaces for vehicles shall be provided as set forth in the following table whenever any building is erected or enlarged:

Table 1: Off-Street Parking Requirements		
Use of Buildings or Site	Minimum Required Parking Spaces	Maximum Allowed Parking Spaces
Single- & two-family dwellings		
Single-family	1.0/dwelling unit	No maximum
Two-family and townhomes	1.0/dwelling unit	2.0/dwelling unit
Multi-family		
Efficiency/studio and 1 bedroom	1.0/dwelling unit	1.5/dwelling unit

Use of Buildings or Site	Minimum Required Parking Spaces	Maximum Allowed Parking Spaces
2-Bedrooms	1.5/dwelling units	2.0/dwelling unit
3 or more Bedrooms	2.0/dwelling units	2.0/dwelling unit
Business: [(GFA) or gross leasable area (GLA)]		
Office and banks	2.5/1,000 sq. ft. GFA	3.0/1,000 sq. ft. GFA
General retail/Shopping Centers	2.0/1,000 sq. ft. GFA	3.5/1,000 sq. ft. GFA
Restaurants	0.2/seat	0.4/seat
Hotels and motels	1.0/rentable room + 0.5/employee	1.2/rentable room and 0.7/employee
Industrial	0.5/employee	1/employee
Auditoriums and theaters	0.2/seat	0.3/seat
Churches/place of worship	0.2/seat	0.3/seat
College/university	0.3/student	0.5/student
Senior high school	0.15/student & 0.7/staff member	0.2/student & 1.0/staff member
Elementary and junior high schools	1.0/classroom	1.0/classroom
Hospitals/urgent care	1.0/beds or exam rooms	2.0/beds or exam rooms

- B. Electric Vehicle Charging Stations (EVCS). Refer to **§ 169-46 (Electric Vehicle Charging Stations)** for EVCS requirements.
- C. The Board of Trustees may, in the case of any proposed building, structure or premises the use of which is not specifically mentioned herein, determine which use in the above table is most like the proposed use for the purpose of requiring off-street parking spaces.
- D. An exception to the requirements in the above table may be permitted by the Board of Trustees if adequate public transportation is available for use by the residents and/or employees working in buildings located in the district in which the permitted use is situated or if adequate municipal parking facilities are available near the site.
- E. In the case of a combination of uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses unless the Board of Trustees is satisfied that staggered hours of use would permit modification. Whenever a fraction of a space is required, a full space shall be provided.

- F. Each off-street parking space provided in a lot shall be at least nine feet wide and 20 feet long.
- G. Each parking space shall have appropriate access to a street or alley.
- H. All open parking areas and driveways shall be graded to properly drain.
- I. No landscaping or structure shall block the visibility of drivers exiting across a public sidewalk or entering a public street. Any closed fence, wall or hedge line located within eight feet of the nearest street line shall not exceed 30 inches in height.

§ 169-38 Off-Street Truck Loading Areas.

- A. Every commercial, industrial or other building or open land area containing more than 10,000 square feet of gross floor area and which requires the receipt or distribution by vehicles of material or merchandise shall provide one off-street truck loading space for every 10,000 square feet to 25,000 square feet of gross floor area, one additional loading space for each additional 25,000 square feet of gross floor area, unless it can be proven that truck deliveries shall not exceed one vehicle per day.
- B. The minimum required dimensions for off-street unloading facilities for over-the-road tractor-trailers include a twelve-foot stall width, sixty-foot stall depth, sixty-foot maneuvering apron (giving a total depth of 120 feet) and fifteen-foot vertical clearance. For city delivery trucks, a twelve-foot stall width, thirty-foot depth, thirty-foot apron, and twelve-foot vertical clearance are required.
- C. Loading facilities shall be designed so that trucks do not back in or out of major streets or use any street for parking. Truck facilities should include off-street parking areas for trailers awaiting pickup or arriving after hours.
- D. All areas used by trucks should be graded, properly drained, and paved.

§ 169-39 Bicycle Parking.

- A. In all districts, compliance with the following bicycle parking guidelines is required. Refer to **Table 2-Bicycle Parking Guidelines** and **Table 3-Bicycle Facility Guidelines**. Visual examples of bicycle facilities are located in **Schedule 3-Bicycle Facilities**.

Table 2. Bicycle Parking Guidelines

NOTE: One bicycle parking space equates to one space provided for a bicycle, not one rack (ex: A standard U-Rack provides two bicycle spaces.)

Land Use	Minimum Spaces	Additional Guidelines
Multifamily Residential Uses	2; 1 add'l per 3 automobile parking spaces	50% must accommodate long term parking
Commercial and Industrial	2; 1 add'l per 5 automobile parking spaces	None
Mixed Use	2; 1 add'l per 5 automobile parking spaces	25% must accommodate long term parking
ADDITIONAL CONSIDERATION: Four (4) bicycle parking spaces above the minimum number recommended may be substituted for one (1) required automobile parking space		

Table 3. Bicycle Parking Facility Guidelines

Facility Purpose	Facility Type	Location Guidance	Surface Material
Long Term: Provides greater security and better protection from the elements. Appropriate for residential uses and workplaces.	Bike Room	Within building	N/A
	Standalone Shelter		
	Gated Shelter and Rack	Building Rear or Parking Lot	Concrete
	Secure Garage/Shed	Building Rear or Parking Lot	Concrete, Asphalt
	Bike Lockers		
	Lockers	Building Rear, In Parking Lot, or within 50' of entrance	Concrete, Asphalt
	Hangar/Pod Style	Building Rear, In Parking Lot, or within 50' of entrance	Concrete, Asphalt
	Bike Racks		
Short Term: Designed to meet the needs of people visiting businesses and institutions, and others with similar needs - typically lasting up to two hours.	Bike Corral	On-street adjacent to curb or within 50' of entrance	Concrete
	U Rack	Within 50' of Entrance	Concrete
	Post & Ring	Within 50' of Entrance	Concrete
	Custom/Branded	Within 50' of Entrance	Concrete
	Double Decker	Within 50' of Entrance or Adjacent to Sidewalk	Concrete
	Facility Type	Location Guidance	Surface Material

	Scooter Rack	Within 50' of Entrance	Concrete
	Enhancements		
Enhancing existing Short- and Long-Term Facilities	Shelter/Roof	Covering Racks	Concrete
	Fix-It Station	Within 10' of Bicycle Parking	Concrete
	Signs/Wayfinding	N/A	N/A
	Spare Parts Vending Machine	Within 10' of Racks	Concrete, Asphalt
	Public Water Access	Within 10' of Racks	N/A
	Shower	Within Building	N/A
	Personal Lockers	Within building or secure shelter	N/A

ARTICLE 9 SUPPLEMENTAL REGULATIONS

§ 169-40 Multi-family dwellings.

- A. Landscaping requirements. All projects shall be suitably landscaped, including the provision of effective screening along the property boundaries, including side and rear boundaries abutting streets.
- B. Pedestrian circulation. Sidewalks and pathways shall be designed to provide safe and convenient access between buildings and internal recreation, parking, service areas and public transportation routes. In no case shall buildings be closer to one another than 25 feet in an R-4 District.
- C. Accessory structures. The permitted accessory structures and uses for multifamily residential districts shall be as specified in Schedule A.

§ 169-41 Townhouse Structures

- A. Except as modified hereafter, the regulations for Townhouse Structures shall apply to
 - (1) Building length. The maximum building length of any townhouse structure shall be 225 feet.
 - (2) Utilities. Each townhouse shall be a self-contained one-family dwelling unit with independent plumbing, heating, cooling and utility systems and facilities. Adequate public water, sewerage and storm drain facilities must be available.
 - (3) Building spacing and layout. Townhouse structures shall be located so that monotonous and undifferentiated silhouettes are avoided. In no case shall townhouse structures be closer to one another than 25 feet.

§ 169-41A Individual Manufactured Home

- A. A manufactured home may be permitted within any Zoning District where single-family dwellings are permitted pursuant to this chapter provided the following requirements are met.
- (1) The manufactured home shall be a minimum of 18 feet in width.
 - (2) The manufactured home shall meet the setback requirements of the applicable zoning district in accordance with this chapter.
 - (3) The manufactured home shall be affixed to a permanent foundation and all towing devices, wheels, axles, and hitches shall be removed.
 - (4) The manufactured home shall be placed on the lot in such a manner that is compatible with and reasonably similar in orientation to any site-built housing in adjacent or nearby locations.
 - (5) No more than one manufactured home shall be allowed on a single lot.

§ 169-41B In-law Apartment

- A. In-law apartments may be permitted where authorized pursuant to Article 2 of this Chapter provided the following requirements are met.
1. An in-law apartment shall be classified as an accessory structure and shall therefore not count towards the number of permitted dwelling units.
 2. An in-law apartment shall only be permitted in a single-family dwelling.
 3. No more than one in-law apartment shall be permitted on any lot.
 4. An in-law apartment shall not exceed 800 square feet, shall be restricted to one bedroom, and shall be connected to the same utilities as the principal dwelling.
 5. An in-law apartment shall be located within or attached to the single-family dwelling and shall not have a separate entrance.
 6. An in-law apartment shall not be located within or attached to an accessory structure.

§ 169-42 Private Outdoor Swimming Pools

A single private outdoor swimming pool per dwelling is permitted as an accessory use to a residential structure. Any edge of such pool shall not be located closer than 10 feet to any lot line nor in any front yard, and such pool shall not occupy more than 10% of the maximum lot coverage specific to the applicable Zoning District. Adequate safety measures, sufficient to make such pool inaccessible from the outside to small children, shall be provided and maintained by the owner of the land on which such pool is situated.

§ 169-43 Home Occupations

- A. Purpose. The purpose of regulating home occupations is to allow home office or small business development within dwellings and their accessory structures in residential neighborhoods, while still preserving the value and character of the existing residential properties.
- B. Prohibited Occupations. Prohibited home occupations include those that would generate adverse impacts to, or are incompatible with, the existing character of a residential neighborhood, as determined by the Code Enforcement Officer. For the purposes of this section, the following uses are specifically prohibited as home occupations.
- (1) Medical facilities.
 - (2) Animal day care, animal boarding, veterinary facility, or animal shelters.
 - (3) Motor vehicle sales and service, motor vehicle fuel sales, motor vehicle repair shop.
 - (4) Cannabis retail dispensary.
 - (5) Supermarket.
 - (6) Car wash.
 - (7) Performing arts center.
 - (8) Restaurants.
 - (9) Transit facility.
 - (10) Light or heavy industry and manufacturing facilities.
 - (11) Warehouse and warehousing.
 - (12) Hotels and Motels.
 - (13) Cultural venue.
 - (14) Public or private schools (excepting home-schooling).
 - (15) Truck driving school.
- C. Requirements. A home occupation use shall comply with the following minimum requirements:
- (1) The home occupation must be clearly incidental and secondary to the use of the residential dwelling and shall conform to all requirements of the NYS Uniform Building and Fire Prevention Code.
 - (2) The residential character of the lot and structures located thereon shall be preserved. Structural alterations or additions of a nonresidential nature shall be prohibited.
 - (3) The home occupation shall be owned and operated by a full-time resident of the dwelling.
 - (5) No more than two employees shall be permitted that are not residents of the dwelling.

- (6) No more than one unlighted sign measuring no larger than two square feet in size, identifying the business, attached flat against the building, shall be permitted. A sign permit pursuant to Chapter 138, Signs and Billboards shall be required.
- (7) There shall be no outdoor storage of materials, good, supplies, or equipment related to the home occupation visible from adjoining properties or a public right-of-way.
- (8) No home occupation shall produce odors, noises, dust, vibrations, glare, or any other nuisance not typically found in a residential neighborhood.
- (9) No expansion of a driveway for the purposes of accommodating employees and/or customer parking shall be permitted.
- (10) No traffic is generated by the home occupation in any greater volume than would normally be expected from a dwelling unit in the residential neighborhood in which the use is to be located.

§ 169-44 Cannabis Retail Dispensaries

A. Allowed districts and approvals.

- (1) Cannabis retail dispensaries may be allowed in the Broadway Business District (BBD) and T-5 Zoning Districts with issuance of a Special Use Permit and Site Plan approval.
- (2) All Village approvals shall be conditioned upon issuance of the applicable licenses by New York State.
- (3) All Village approvals issued under this section shall have a term limited to the duration of the applicant's use of the premises as a licensed operator.

B. Location requirements.

- (1) Required separation distances. The following separation distances shall be required consistent with applicable New York State regulations pertaining to Adult-Use Retail Dispensaries.
 - (a) School grounds. No cannabis retail dispensary shall be located on the same road and within 500 feet of school grounds, as this term is defined in this chapter.
 - (b) Religious use. No cannabis retail dispensary shall be located on the same road and within 200 feet of a building occupied exclusively as a religious use.
 - (c) Separation distances shall be measured in a straight-line between property boundaries.
- (2) Fixed location. All cannabis retail dispensaries shall be operated from a fixed location and shall not be operated from a movable structure or vehicle, except as may be permitted for delivery purposes pursuant to the MRTA.
- (3) Entrances.
 - (a) The principal entrance must be located on a public thoroughfare at street level.

- C. Home occupation prohibited. No cannabis retail dispensary shall be permitted as a home occupation.
- D. Security.
 - (1) All cannabis retail dispensaries shall provide proper security at the premises meeting minimum standards set forth by the Office of Cannabis Management, to deter and prevent illegal activities from taking place on or near the applicant's premises and avoid conduct that has an adverse effect on the health, safety and/or welfare of employees, customers, and the surrounding neighborhood.
 - (2) A security plan shall be provided with the Site Plan/Special Use Permit application.
- E. Outdoor storage. No cannabis retail dispensaries shall be permitted to store products, materials, or other supplies outdoors.
- F. Control of emissions and waste.
 - (1) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids, and other substances from exiting a cannabis retail dispensary shall be provided at all times.
 - (2) All Site Plan/Special Use Permit applications for cannabis retail dispensaries shall provide an odor and waste control plan that provides for proper and adequate ventilation and demonstrates that any odors and waste associated with the cannabis retail dispensary shall be effectively confined to the premises and so treated to avoid any negative impacts to neighboring properties.
 - (3) The facility operator shall properly dispose of all such materials, items, and other substances in a safe, sanitary, and secure manner and in accordance with all applicable federal, state and local laws and regulations.
- G. Discontinuation of use & license revocation. If the cannabis retail dispensary ceases to operate in accordance with the applicable State of New York license or if the license issued pursuant to the MRTA is revoked by the State of New York, the facility operator shall immediately notify the Code Enforcement Officer, the applicable Special Use Permit and Site Plan approval shall automatically be revoked, and all materials, cannabis products, equipment, and signage shall be removed from the premises and properly secured in accordance with applicable State of New York requirements.
- H. Signage. All signage shall comply with the MRTA, applicable regulations established by the Office of Cannabis Management, and shall obtain a Village sign permit in accordance with Chapter 138 (Signs and Billboards) of the Menands Village Code.

§ 169-45 Communications Towers

- A. Purpose and Intent. This section is enacted to allow for the orderly and desirable placement, construction and modification of communication towers, antennas and accessory communications structures within the Village of Menands, while ensuring the

Village's residential neighborhoods, mixed-use districts, and parks are not negatively impacted.

B. Permitting.

- (1) New communication towers. Except as otherwise provided by this chapter, no person shall be permitted to site, place, build, construct, or prepare any site for the placement or use of a new communications tower as of the effective date of this chapter without having first obtained a special use permit in accordance with this section.
- (2) Modification or co-location on existing legally permitted communications towers. Except as otherwise provided by this section, the proposed co-location of new transmission equipment on, or the modification of a legally permitted communications towers existing on the effective date of this section, shall require site plan approval, except a special use permit shall be required if the proposed modification or co-location will increase the height of the existing tower.
- (3) Modification or co-location on pre-existing, non-conforming communications tower. Except as otherwise provided by this section, the modification or co-location on a communications tower that is not in conformance with this section and existed on the effective date of this section, shall require a special use permit in accordance with this section, but at no time shall the height of said wireless communications tower be increased.
- (4) Co-location on existing tall structure. Except as otherwise provided by this section, the proposed co-location of new transmission equipment on an existing tall structure shall require a special use permit in accordance with this section.

C. Exemptions to these regulations are limited to:

- (1) Satellite dishes and television antenna(s) and related equipment that are accessory to residential and commercial establishment, provided they do not exceed the maximum height permitted by this chapter by more than 10 feet.
- (2) Amateur radio facilities as licensed by the Federal Communications Commission (FCC).
- (3) Any repair and maintenance of a communications tower consisting of the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or involving the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.
- (4) Where these regulations conflict with other laws and regulations of the Village of Menands, the more restrictive shall apply, except for tower height regulations that shall be governed by these standards.

D. Type of communication towers permitted.

- (1) Only single pole or monopole towers shall be permitted, except where an applicant proposes an alternative tower design deemed acceptable by the Board of Trustees.
- (2) Lattice towers shall be prohibited.

E. Prioritizing siting locations.

- (1) Applicants shall be required to comply with the priorities set forth herein when selecting the location for any new communications tower structure or co-location facility. Additionally, applicants must refer to the Village's planning documents, including the Comprehensive Plan and other relevant Village planning materials to help minimize aesthetic and visual impacts to community character in the detailed site planning and design for any project.
- (2) An applicant shall locate, co-locate, site and erect communications towers, structures, antennas and accessory structures, alternative tower structures, or other tall structures in accordance with the priorities expressed within this section, with **subsection (3)(a)** below being the highest priority and **subsection (3)(e)** below being the lowest priority. An applicant shall not bypass sites of higher priority by stating the site presented is the only site it has leased or selected to cover the area of its demonstrated area of need. An application shall address co-location on an existing communications facility or tall structures as a primary option, and if such option is not proposed, the applicant must explain why co-location is commercially impracticable or is technologically infeasible as demonstrated by substantial evidence in the written record. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (3) Prioritization. The siting of new communication towers and antennas shall be guided by the following prioritization of methods and zoning districts:
 - (a) Co-location on existing communication sites or tall structures, regardless of the zoning districts.
 - (b) Use of appropriate alternative tower structures, within allowed zoning districts east of Broadway (Rt. 32).
 - (c) Use of two or more shorter tower structures as an alternative to one taller structure, within allowed zoning districts provided the potential cumulative adverse visual impacts are less than what would occur with the use one taller structure.
 - (d) New standalone communication towers west of Broadway (Rt. 32) in allowed zoning districts.
 - (e) New standalone communication towers west of Broadway (Rt. 32) in allowed zoning districts.

F. Site selection criteria.

- (1) In all cases, co-locating on existing tall structures or utilizing appropriate alternative tower structures or nonresidential structures are preferred methods of providing

service, provided there is no significant adverse impact to residential property within 500 feet of said structure or accessory equipment that cannot be mitigated.

- (2) If the proposed property site is within a Residential District, as defined herein, then a detailed explanation must be provided as to why a site of higher priority method or location was not selected for the provision of service to the service area identified in the application. The applicant seeking such an exception must satisfactorily demonstrate, by objectively verifiable data, the reason why a site in higher-priority method or districts were not selected to provide the service improvement. The Board of Trustees shall review such applications with strict scrutiny under the Telecommunications Act of 1996 ("Federal Act") as amended and SEQRA.
- (3) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the application may be disapproved for any of the following reasons:
 - (a) Conflict with safety and safety-related codes and requirements.
 - (b) Conflict with the historic nature of a neighborhood or historic district, where applicable.
 - (c) Adverse aesthetic impact upon the overall character of the neighborhood and surrounding community, or conflict with fundamental policy as expressed within the Village's Comprehensive Plan and any other applicable Village or regional planning document.
 - (d) Applicant's failure to demonstrate, through submission of objectively verifiable data, that the facility is needed in order to fill service gaps within the Village under the Federal Act.
 - (e) The applicant fails to satisfy any criteria for siting under this section.
 - (d) Adverse environmental impacts or resulting cumulative impacts which cannot be mitigated pursuant to review of the application under SEQRA.

G Procedures for review.

- (1) All applicants seeking approval of a communications tower, co-location facility or any modification of such a facility shall follow the procedures set forth in this section and in **Article 10 (Site Plan)** and **Article 11 (Special Use Permit)** of this Chapter, as applicable.
- (2) Decision by the Board of Trustees. In addition to all requirements and standards of this section, the Board of Trustees may approve or deny the applicable approval on the basis of the criteria and requirements set forth in **§ Article 10 (Site Plan)** and **Article 11 (Special Use Permit)** of this Chapter, as applicable.
- (3) Pre-application meeting required for all proposals. The pre-application meeting is intended to address issues to help expedite the review and permitting process. A pre-application meeting should involve, at a minimum, the applicant, a member of the

Board of Trustees, the Village Designated Engineer, and the Code Enforcement Officer and may consist of a conference call, in-person meeting, and/or a site visit.

- (4) Relief, waiver, or exemption. Any applicant desiring relief, waiver or exemption from any aspect or requirement of this section may make such request at the pre-application meeting or, subsequently, to the Board of Trustees. Any request for waiver or exemption from any aspect of this section shall be contained in the original application. Such relief may be temporary or permanent, partial, or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the Village in considering the request and the relief, waiver, or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the Village, its residents and other services or the ability of the Board of Trustees to conduct its review pursuant to this section.
- H. Application requirements. In addition to all other application requirements as stated in **Article 10 (Site Plan)** and **Article 11 (Special Use Permit)**, all applications for the construction or installation of new wireless telecommunications facilities, co-location facilities, or modification of an existing wireless telecommunications facility shall contain the following, unless otherwise waived by the Board of Trustees:
- (1) Name, mailing addresses, phone numbers and email addresses of the following parties, as appropriate:
 - (a) The person(s) preparing the application.
 - (b) The landowner of the project site to be purchased, leased, or otherwise acquired.
 - (c) The owner of a tower, building or structure on which co-location is proposed, if the owner is not the applicant.
 - (d) The applicant, including the applicant's legal name.
 - (e) Engineering consultant(s).
 - (f) Legal representative(s).
 - (g) Other authorized service providers proposing to co-locate on the wireless telecommunications facility.
 - (2) The postal address and tax map parcel number(s) of the property.
 - (3) Documentation to verify the applicant has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
 - (4) The zoning district in which the property is situated.

- (5) A descriptive statement of the objective(s) for the new facility, modification, or co-location, including and expanding on a need such as coverage and/or capacity requirements.
- (6) Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the Village of Menands. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage.
- (7) A certified site plan, accurately drawn to scale, containing the following information:
 - (a) Title block including name of project, name of applicant, name of map preparer, and address of the property.
 - (b) Small-scale location and zoning map at a scale of one inch equals 2,000 feet; location map shall be oriented the same as the site plan.
 - (c) North arrow.
 - (d) Existing zoning district, with district boundaries within 500 feet of the site.
 - (e) Existing vegetation, watercourses, and other natural features.
 - (f) Existing use of all adjoining properties.
 - (g) Names of all adjoining properties.
 - (h) Locations and names of adjacent streets.
 - (i) Boundary line of property, including any interior lot lines.
 - (j) Size of the property in square feet.
 - (k) Location, size, and height of all existing structures on the property.
 - (l) Existing structures, utilities, and site improvements on and within 100 feet of the site.
 - (m) The location of nearest residential structure.
 - (n) Existing parking, circulation, site access, storage, and the number of parking spaces.
 - (o) Type, locations and dimensions of all existing landscaping and fencing.
 - (p) Location of any proposed tower and antenna(s) and all related fixtures, structures, appurtenances, and apparatus, including height above preexisting grade, materials, color and lighting.
 - (q) Azimuth, size and center-line height location of all proposed and existing antennas on the supporting structure.
 - (r) Where applicable, the following additional information shall be provided:

- [1] Proposed buildings and other improvements (with building and setback dimensions).
 - [2] Existing and proposed utilities, including lateral locations, sizes, and connection points.
 - [3] The location, size and height of all proposed structures on the property.
 - [4] The type, locations and dimensions of all proposed landscaping, vegetation, and fencing.
 - [5] Proposed clearing and grading limits.
 - [6] Proposed parking, circulation, site access, storage, service, and display areas, with number of parking spaces.
 - [7] Existing/proposed easements.
 - [8] Existing and proposed site coverage statistics (building area, paved area, and green space area in square feet and as a percentage of the total site area).
 - [9] A three-inch-by-three-inch block for site plan approval stamp (at lower right side of plan).
- (s) The number, type and model of the antenna(s) proposed with a copy of the specification sheet.
 - (t) The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users.
 - (u) Construction plans showing the elevation of the proposed wireless telecommunications facility, tower, antennae, and/or accessory facilities or structures. Show all foundations, piers, structural supports, cross arms, guy wires and anchors, antenna-mounting mechanisms, lighting, and signage. Label the size, material and color sample of wireless telecommunications facilities, towers, antennas, and accessory facilities or structures, including but not limited to equipment cabinets, fencing and storage.
 - (v) The frequency, modulation, and class of service of radio or other transmitting equipment.
 - (w) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts.
 - (x) A complete RF emissions study to verify compliance with FCC emissions regulations.
 - (y) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities.
 - (z) A copy of the geotechnical subsurface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and, if an existing tower or water tank site, a copy of the installed foundation design.

- (aa) A written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77, as amended and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA, and any related correspondence shall be provided with the application. If lighting is required by law or regulation, the applicant shall provide a detailed plan for sufficient lighting as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- (bb) Certification with documentation of the structural analysis including calculations that the wireless telecommunications facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Village, state, and Federal structural requirements for loads, including wind and ice loads. To protect municipal services, any tower located on Village property must be designed to withstand one-hundred-mile-per-hour winds and one inch of radial ice.
- (cc) Documentation demonstrating that the facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect practicable on the environment and its character and on the residences in the area of the wireless telecommunications facility.
- (dd) Visual impact assessment. If a new tower, proposal for a new antenna attachment to an existing structure, or modification, the applicant shall furnish a visual impact assessment, pursuant to the following:
- [1] If a new tower or increasing the height of an existing structure is proposed, a computer-generated zone of visibility map at a minimum of one-mile radius from the proposed structure, with and without foliage, shall be provided to illustrate locations from which the proposed installation may be seen.
 - [2] Pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the Village as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves, and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents, as so directed by the Board of Trustees. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure. If sufficient information regarding the proposed location and tower is provided at the pre-application meeting, guidance concerning the appropriate key sites may be provided by the Board of Trustees. Otherwise, guidance would be provided at a later meeting.

- [3] A written description of the visual impact of the proposed facility including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents, as so directed by the Board of Trustees.
 - [4] The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.
- (ee) In the case of an application for a new tower, a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the Village. Copies of written requests and responses for shared use shall be provided to the Village in the application, along with any letters of rejection stating the reason for rejection.
- (ff) In the case of an application for a co-location or modification of an existing tower, the applicant is to provide signed documentation of the tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA- 222F or most recent version. The inspection report must be performed every three years for a guyed tower and five years for monopoles and self-supporting towers.
- (gg) Any and all representations made by an applicant to the Board of Trustees, on the record, during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Board of Trustees.
- I. Minimum standards.
- (1) Height and visibility.
 - (a) The height of a wireless communication tower shall be limited to the minimum required to provide the proposed communications services.
 - (b) Unless the wireless communications tower is proposed to be located on or within a building or structure, the tower shall not project higher than twenty feet above the average tree canopy height of the proposed site, or surrounding property, if trees do not exist on said site, or 195 feet, whichever is less. For the purposes of this section, "average tree canopy height" shall be the average height above ground level of all trees that provide camouflage for the wireless telecommunications facility, such average to be determined by inventorying the trees to remain after the construction of the wireless communications facility or trees surrounding the site if no trees existing or will remain on the site.
 - (2) All wireless communication accessory structures shall comply with zoning setback regulations in the affected zone.

- (3) All wireless communication towers shall be set back a distance at least equal to 1 and $\frac{1}{2}$ times the tower's height. Additional setbacks may be required by the Board of Trustees in order to provide for public safety. Freestanding towers shall be located in the rear yard if the site has an existing principal building.
- (4) Safe zone. Wireless communication towers shall be designed so that in the event of failure they will fall within the setback area of the site and/or away from adjacent development.
- (5) Material and paint. Wireless communication towers and antennas shall be of a galvanized finish, or painted gray above the surrounding treeline, and gray or green below the treeline; the mountings of telecommunications antennas shall be non-reflective and of the appropriate color to blend with their background.
 - (a) Accessory structures and facilities shall maximize use of building materials, colors, and textures designed to blend with the natural surroundings.
 - (b) Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of a special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
 - (c) Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
 - (d) No portion of this site shall be used for storage or display of any product or material, or for parking of any vehicles, or for the conduct of any other business operations, unless specifically designated for such use on this site development plan.
 - (e) The applicant shall employ the latest current industry standard in sound-minimizing technology and demonstrate to the satisfaction of the Board of Trustees that all reasonably available technology will be implemented so as to minimize auditory impacts from generators or other ancillary equipment resulting from the proposal to adjacent properties to a reasonable level in the judgment of the Board of Trustees.
 - (f) Wireless communications towers shall not be artificially illuminated unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall, to the fullest extent possible, cause

the least disturbance to the surrounding areas. Upon request from Planning Board, the applicant shall provide a copy of any analysis indicating a requirement for lighting under Federal Aviation Regulation Part 77, as amended. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided to the reviewing board in a timely manner.

- (g) All utilities leading to and away from the site of any communications towers, antennas and accessory communications structures shall be installed in compliance with the New York State Uniform Fire Prevention and Building Code and shall be installed underground and in compliance with all applicable ordinances, local laws, codes, rules, and regulations of the Village, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate.
- (h) No signs or advertising materials of any nature shall be allowed on any communications tower or antenna unless such signs consist of warning signs or other notifications designed to alert the public to safety concerns.
- (i) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (j) Fencing. Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately fenced to prevent unauthorized access, unless the applicant demonstrates to the Board of Trustees that such measures are unnecessary to ensure the security of the facility.
- (k) Security lighting. Motion-activated or staff-activated security lighting around accessory communications structures, antennas or communications towers may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeter has been entered.
- (l) There shall be no permanent climbing pegs within 30 feet of the ground on any tower.
- (m) A locked gate at the junction of the accessway and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into or interfere with the public right-of-way.
- (n) Inspection required. All accessory communications structures, antennas or communications towers shall be inspected at least every fifth year for structural integrity by a licensed New York State professional engineer at the cost of the owner of the accessory communications structure, antenna or communications tower. A copy of the inspection report shall be submitted to the Code Enforcement Officer.

J. Fees.

- (1) At the time that a person submits an application in accordance with this section, such person shall pay a nonrefundable application fee. Application fees shall be established by the Board of Trustees by resolution. A fee schedule shall be made available upon request. No required fee shall be substituted for any other fee.
- (2) In addition to the required application fee, applicants shall deposit an additional amount in accordance with **§ 169-12 (Expenses)** of this Chapter to cover the costs of any necessary professional reviews.

K. Removal.

- (1) The applicant shall submit an agreement, in writing, to remove all accessory communications structures, antennas or communications towers if such facilities become technically obsolete or cease to be used for their original intended purpose for more than 12 consecutive months. Upon removal of said facilities, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soil.
- (2) The applicant must submit an analysis by a New York State licensed professional engineer of the cost of removal of the accessory communications structure, antenna and/or communications tower, as applicable, and surrounding property restorations.
- (3) Prior to obtaining a building permit, the applicant must provide a financial security bond or letter of credit reasonably acceptable to the Board of Trustees for the removal of the accessory communications structure, antenna and/or communications tower, with the Village of Menands as the designated assignee, in an amount approved by the Board of Trustees which is equal to the current projected cost for the removal of the type of facility permitted, plus a reasonable escalation rate based upon the anticipated useful life of the facility.

§ 169-46 Electric Vehicle Charging Station

- A. Purpose and intent. The purpose and intent of this section is to set forth requirements to allow for the establishment, siting, and operation of electric vehicle supply equipment in order to protect the public health, safety, and welfare of the residents of and visitors to the Village of Menands, and to promote and facilitate access to Electric Vehicle (EV) Charging Stations consistent with the Comprehensive Plan.
- B. Unless otherwise waived by the Board of Trustees, any site plan for a residential use that proposes ten or more dwelling units or a nonresidential use proposing more than 25 parking spaces shall make provisions for the installation and use of one or more EV Charging Stations in accordance with the following:
 - (1) A minimum of one parking space with a Level 1 or Level 2 EV Charging Station shall be required for all multifamily residential structures that include ten or more dwelling units.

- (2) Office, business, commercial or recreational and other nonresidential uses, including civic, cultural, and not-for-profit uses (e.g., libraries, day-care centers, schools, churches, etc.) that includes 25 or more automobile parking spaces shall provide at least one parking space with convenient and suitable access to an EV Charging Station.
 - (3) Parking spaces for nonresidential uses shall be designed and arranged so that electric vehicle parking spaces are available for the parking of an electric vehicle. Parking spaces designated on an approved site plan for a public EV Charging Station shall be used exclusively for the parking of a vehicle that is connected to the EV Charging Station for charging.
 - (4) All installed EV Charging Station parking facilities shall be maintained in good operating condition at all times during the duration of the proposed use.
 - (5) In the event the Board of Trustees determines that the applicant has demonstrated good cause to waive the installation of an EV Charging Station facilities otherwise required by this section, it shall require that a sufficient number of spaces be provided with conduit and such other equipment as may be necessary to enable an EV Charging Station to be installed in the future with minimal inconvenience or disturbance of parking areas.
 - (6) A parking space available for use by an EV Charging Station shall continue to be deemed a parking space for purposes of calculating the number of required parking spaces as required by **Article 8, (Automobile and Bicycle Parking)** of this chapter.
- C. Standards for electric vehicle supply equipment.
- (1) Electric vehicle charging station, restricted use. EV Charging Station designated for restricted use shall be properly signed to indicate the EV Charging Station is available to tenants and their visitors and not for general public use.
 - (2) Electric vehicle charging stations on residential property shall not be available for public use.
 - (3) Electric vehicle charging station, public use.
 - (a) Electric vehicle parking and charging stations shall be equal to parking space size and performance standards as required in **Article 8, (Automobile and Bicycle Parking)** of this chapter.
 - (b) Electric vehicle parking and charging stations shall not take the place of accessible (ADA) parking spaces. Every effort should be made to provide an accessible (ADA) charging station parking space.
 - (c) Installation of electric vehicle supply equipment shall meet National Electrical Code Article 625, as amended.
 - (d) Charging station outlets and connectors shall be no less than 36 inches in height and no higher than 48 inches from the surface where mounted.

- (e) Adequate EV Charging Station protection, such as concrete-filled steel bollards, shall be installed. Curbing may be used in lieu of bollards if the charging station is set back a minimum of 24 inches from the face of the curb.
- (f) Adequate site lighting should be provided unless charging is for daytime purposes only.
- (g) If time limits or vehicle removal provisions are to be applied, regulatory signage including parking restrictions, hours and days of operation, towing, and contact information shall be installed immediately adjacent to, and visible from, the EV Charging Station.
- (h) EV Charging Station shall not interfere with the minimum pedestrian clearance widths as defined in Chapter 11 of the New York State Building Code, as amended. Cords, cables, and connector equipment shall not extend across the path of travel within a sidewalk or walkway.

§ 169-47 Solar Energy Systems

- A. Purpose & Intent. It is the policy of the Village to promote and encourage the use of solar energy systems (as defined herein) and to remove obstacles to the use of such systems. Use of solar energy for space heating, water heating or generating electricity reduces dependence upon finite fossil fuel resources, helps reduce the amount of pollution resulting from the use of fossil fuels and reduces or eliminates carbon dioxide emissions. In addition, these regulations are intended to advance and protect the public health, safety, and welfare of the Village of Menands.
- B. Applicability.
 - (1) Articles 2 through 5 of this Chapter identifies the Zoning Districts where Tier 1, 2 and 3 Solar Energy Systems may be permitted and the applicable review and approval processes.
 - (2) The requirements herein shall apply to all existing solar energy systems installed and constructed after the effective date of this section.
 - (3) This section shall also apply to any upgrade, modification or structural change that alters the physical size, electric generation capacity, location or placement of an existing solar energy system.
 - (4) Nonconforming solar energy systems. Nonconforming solar energy systems existing on the effective date of this section may be altered or expanded provided such alteration or expansion does not increase the extent or degree of nonconformity.
 - (5) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code.
- C. Application requirements for Tier 1 and 2 Ground-Mounted Solar Energy Systems.

- (1) 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.
 - (2) Name, address, contact information, 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.
 - (3) Nameplate Capacity of the solar energy system (as expressed in kW or MW).
 - (4) Zoning district designation for the parcel(s) of land comprising the facility.
 - (5) Property lines and physical features, including roads, for the project site.
 - (6) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
 - (7) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
 - (8) A one- or three-line electrical diagram detailing the entire solar energy system layout, including the number of solar panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all battery energy storage system components if applicable and should include applicable setback and other bulk and area standards.
 - (9) A preliminary equipment specification sheet that documents all proposed solar panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- D. Application requirements for Tier 3 Ground-Mounted Solar Energy Systems.
- (1) 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.
 - (2) Name, address, contact information, 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.
 - (3) Nameplate Capacity of the solar energy system (as expressed in MW).
 - (4) Zoning district designation for the parcel(s) of land comprising the facility.
 - (5) Property lines and physical features, including roads, for the project site.
 - (6) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.

- (7) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- (8) Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Board of Trustees.
- (9) A one- or three-line electrical diagram detailing the entire solar energy system layout, including the number of solar panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all battery energy storage system components if applicable and should include applicable setback and other bulk and area standards.
- (10) A preliminary equipment specification sheet that documents all proposed solar panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- (11) A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
- (12) A Decommissioning Plan signed by the owner and/or operator of the solar energy system shall be submitted by the applicant. The decommissioning plan shall address the following:
 - (a) The time required to decommission and remove the solar energy system and any ancillary structures.
 - (b) The time required to repair any damage caused to the property by the installation and removal of the solar energy system.
 - (c) The cost of decommissioning and removing the solar energy system, as well as all necessary site remediation or restoration.
 - (d) The provision of a decommissioning security which shall adhere to the following requirements:
 - [1] The deposit, executions, or filing with the Village Clerk of cash, bond, or other form of security reasonably acceptable to the Village attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.
 - [2] The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Tier 3 Solar Energy System and shall be revisited every 5 years and updated as needed to reflect any changes (due to inflation or

other cost changes). The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.

- [3] In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Village which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

E. General provisions applicable to all solar energy systems.

- (1) Qualified installations. Solar energy systems shall be constructed, installed, replaced or modified by a qualified solar installer, as defined herein; except that homeowners may install their own personal solar energy systems in accordance with this section. Any system installed by a homeowner and not by a solar installer shall be inspected by a licensed engineer specializing in solar energy systems and proof of acceptability of system installation shall be provided to the Village in all cases. Should any solar energy systems be connected to a public electric transmission system grid, approvals must also be gained from the appropriate utility, and remain on file in the Code Enforcement Officer.
- (2) Government approval. The applicant, owner or operator of a solar energy system shall establish to the satisfaction of the Code Enforcement Officer for Tier 1 Solar Energy Systems and the Board of Trustees for Tier 2-3 Solar Energy Systems that all applicable governmental agencies with jurisdiction over the installation and operation of such solar energy system have provided all permissions and approvals necessary to install and operate such system. All such permissions and approvals required after installation shall be provided to the Code Enforcement Officer within seven days of their receipt.
- (3) Limitations of approvals.
 - (a) Nothing in this section shall be deemed to allow any solar energy system applicant, owner, or operator the right to remove any trees, vegetation or other obstruction located on any real property over which said owner or operator does not have fee title or a solar easement.
 - (b) It shall be the sole responsibility of the solar energy system applicant, owner, or operator to acquire any necessary solar easements or other appropriate land use rights in order to provide for and maintain appropriate solar access areas.
- (4) Glare.
 - (a) All solar panels shall have anti-reflective coating(s).
 - (b) Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways.

- (c) Exterior surfaces of roof-mounted collectors and related equipment shall have a non-reflective finish and shall be color-coordinated to harmonize with roof materials and other dominant colors of the structure.
- (5) Waivers. The Board of Trustees may add or waive, by a simple majority of its members, any requirement for a complete application submission if it deems such waived or added requirements are appropriate in order to accomplish the purposes of this section and this chapter, and that such waived requirements are not found to be requisite in the interest of the public health, safety or general welfare or considered inappropriate or not applicable to the particular application.
- F. Standards for Tier 1 Rooftop-mounted solar energy systems:
 - (1) When attached to a pitched roof:
 - (a) Shall be mounted with a maximum distance of eight inches between the roof and surface of the highest edge of the system.
 - (b) Shall be installed parallel to the roof surface on which they are mounted.
 - (c) Shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - (2) When attached to a flat roof, shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- G. Standards for Tier 1 building-integrated solar energy systems. Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.
- H. Standards for Tier 1 and Tier 2 ground-mounted solar energy systems.
 - (1) Shall not exceed a height of 12 feet. Height measurements shall be calculated when the ground-mounted solar energy system is oriented at maximum tilt.
 - (2) The location of the ground-mounted solar energy system shall be one that is clearly suitable and sized.
 - (3) The solar energy system and related structures and equipment may be located on any part of the parcel in question in accordance with the following requirements:
 - (a) The solar energy system and related structures and equipment may be located on any part of the parcel in question in accordance with the following requirements:
 - [1] Front Yard: Shall maintain the minimum front yard setbacks for principal structures in accordance with this Chapter and shall be sufficiently screened from public rights-of-ways and adjoining and nearby properties to the maximum extent practicable, through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

- [2] Side Yard: Shall maintain the minimum side yard setbacks for accessory structures in accordance with this Chapter. Side yards should be screened from public rights-of-ways and adjoining and nearby properties to the maximum extent practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
- [3] Rear Yard: Shall maintain the minimum rear yard setbacks for accessory structures in accordance with this Chapter.
- [4] The total allowed maximum square feet of ground-mounted solar panels shall not exceed the total roof area of the largest permitted structure on the subject property. An applicant proposing to exceed the total roof area of the largest permitted structure on the subject property shall be required to obtain an area variance in accordance with this Chapter.
- [5] The total surface area covered by ground-mounted solar panels regardless of the mounted angle, shall not be included in determining total lot coverage. Any impervious surfaces constructed to serve as a base for the ground-mounted system shall be counted towards the total lot coverage for the subject lot.

I. Standards for Tier 3 Solar Energy Systems.

(1) Local and compatibility.

- (a) The location for Tier 3 solar energy systems shall be one that is clearly suitable and sized for such use, including, but not limited to, having proper drainage and provisions for stormwater control and the ability to adequately buffer such use from adjacent uses.
- (b) When siting a Tier 3 solar energy system, applicants shall first consider the following preferred locations within allowed Zoning Districts: Brownfields, transfer stations and closed landfills, sand and gravel mines no longer in operation, and open fields not considered productive farmland.
- (c) The proposed installation must be compatible with the adjacent uses in terms of scale, siting, design, lighting, and noise generation, and must comply with all New York State and Village codes and applicable design standards or guidelines.
- (d) Existing on-site vegetation shall be preserved to the maximum extent practicable.

- (2) Height. Tier 3 solar energy system arrays shall not exceed 15 feet in height when oriented to maximum tilt. All other structures and equipment associated with the system shall comply with the height restrictions of the underlying zoning district.
- (3) Setbacks. Tier 3 solar energy systems, including all arrays, associated structures and equipment shall be located at least 100 feet from all lot lines. The Board of Trustees reserves the right to require additional setbacks to adequately buffer adjoining uses and public property.

- (4) Lot size. Tier 3 solar energy systems shall be located on lots with a minimum lot size of 10 acres.
- (5) Lot coverage. All Tier 3 solar energy systems and associated accessory structures and equipment shall not exceed the maximum lot coverage requirement of the underlying zoning district. For the purposes of this section, lot coverage shall include foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars; all mechanical equipment of the solar energy system, including any pad mounted structure for battery storage systems components, switchboards, or transformers; and paved access roads servicing the solar energy system.
- (6) Buffers and screening.
 - (a) A minimum 20-foot buffer, consisting of natural vegetation, shall be provided around all mechanical equipment, associated structures, and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways. Non-invasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, and wildflowers must be used in the vegetative buffer. Existing trees and vegetation may be maintained within such buffer areas except where dead, diseased or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy landscaping requirements as applicable. If existing trees and vegetation are disturbed, new plantings shall be provided for the buffer. The buffer shall be maintained for the life of the facility.
 - (b) When a Tier 3 solar energy system site adjoins property zoned for residential use, an increase in the required vegetated buffer may be required between the residential lot and site improvements associated with the system. The additional buffer area shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the ground-mounted system from residential uses. The species type, location and planted height of such landscaping shall be subject to the approval of the Board of Trustees.
 - (c) The Board of Trustees shall have the right to require a visual assessment analysis, including photo simulations of the proposed project from key viewpoints, including, but not limited to, public roads, scenic viewsheds, parks, protected open space, buildings and properties listed on the State and/or National Registers of Historic Places, and any additional important resource or publicly accessible location.
- (7) Vegetative groundcover required.
 - (a) Non-invasive groundcover under and beneath the rows of solar panels shall be pollinator-friendly, low-maintenance, drought-resistant, and non-fertilizer dependent.

- (b) The project area will be seeded promptly following completion of construction in such a manner as to reduce invasive weed growth and sediment in the project area.
 - (c) The use of herbicides and pesticides shall be strongly discouraged and shall be limited to the maximum extent practical with natural alternative solutions preferred.
- (8) Fencing.
 - (a) All electrical and control equipment shall be secured to prevent unauthorized access.
 - (b) All Tier 3 solar energy systems shall be enclosed by fencing which shall be located on the interior of the required vegetative buffer. The Board of Trustees shall have the right to decide on the type and height of fencing based on the location and screening needs.
 - (c) The fence shall be wildlife friendly and shall have five-inch by twelve-inch openings at ground level spaced no more than 100 feet apart to allow unencumbered travel by small animals.
- (9) Underground requirements. All utility lines located outside of the facility's fenced perimeter boundary shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitations any poles, with new easements and right-of-way.
- (10) Access. The applicant shall indicate on the site plan all existing and proposed access routes to the site, including road, electric power, emergency access, land-based telephone line connections, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Board of Trustees.
- (11) Signs. All electrical and control equipment shall be labeled. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment, except:
 - (a) Manufacturer's/installer's identification and/or facility name;
 - (b) Appropriate warning signs and placards;
 - (c) Signs that may be required by a federal agency; and
 - (d) Signs that provide a 24-hour emergency contact phone number.
- (12) When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure, meeting the requirements of the NYS Uniform Fire Prevention and Building Code when in use and when no longer used, shall be disposed of in accordance with the laws and regulations of the Village of Menands and all other applicable laws and regulations. The applicant and Board

of Trustees shall refer to the New York Battery Energy Storage System Guidebook, developed by the NYS Energy Research and Development Authority during the planning, design and project review stages.

- (13) Ownership. In the case of an application for a Tier 3 solar energy system to be located on private lands owned by a party other than the applicant or the Village, a copy of the lease agreement with the property owner shall be filed with the Code Enforcement Officer.
- (14) Proof of insurance. The applicant and the owner of the property where the solar energy system is to be located shall file with the Code Enforcement Officer proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation of the system.
- (15) Any application under this section shall meet all applicable provisions for site plan and special use permit approval in accordance with the Chapter.
- (16) Abandonment and decommissioning.
 - (a) Purpose. It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Village of Menands by requiring abandoned solar energy systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the solar industry which may create an environment for systems to be abandoned, thereby resulting in a negative visual impact on the Village. Abandoned solar energy systems may become unsafe by reasons of their energy-producing capabilities and serve as an attractive nuisance.
 - (b) Abandonment. A Tier 3 solar energy system shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A Tier 3 solar energy system shall also be deemed abandoned if the facility is not completed and functioning within two years of being issued final site plan and special use permit approval.
 - [1] Extension of time. The time at which a Tier 3 solar energy system shall be deemed abandoned may be extended by the Board of Trustees for one additional year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at not less than 80% of its rated capacity, within the time period of the extension. An application for an extension of time shall be made to the Board of Trustees by the Tier 3 solar energy system owner prior to abandonment as defined herein. Extenuating circumstances as to why the system has not been operating or why construction has not been completed may be considered by the Board in determining whether to grant an extension.
 - (c) Removal required. A Tier 3 solar energy system which has been abandoned shall be decommissioned and removed. The system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove

all components of the system within one year of abandonment. Removal of the system shall be in accordance with a decommissioning plan approved by the Board of Trustees.

- (d) Decommissioning Plan. All applications for a Tier 3 solar energy system shall be accompanied by a decommissioning plan. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, and shall at a minimum, include the following:
 - [1] An estimate of the anticipated operational life of the system.
 - [2] A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work.
 - [3] Identification of the party responsible for decommissioning.
 - [4] Description of any agreement with the landowner regarding decommissioning.
 - [5] A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar energy system.
 - [6] A financial plan to ensure that financial resources will be available to fully decommission the site.
 - [7] Removal of aboveground and below-ground equipment, structures, and foundations.
 - [8] Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
 - [9] Restoration of the surface grade and soil after removal of equipment.
 - [10] Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- (e) Financial surety. As a condition of the special use permit and prior to the issuance of a building permit and every three years thereafter, the Tier 3 solar energy system owner and/or landowner shall file with the Village evidence of financial security to provide for the full cost of decommissioning and removal of the solar energy system in the event the system is not removed by the system owner and/or landowner. Evidence of financial security shall be in effect throughout the life of the system and shall be in the form of an irrevocable letter of credit or other security acceptable to the Board of Trustees. The irrevocable letter of credit shall include an automatic extension provision, to be issued by an A-rated institution solely for the benefit of the Village. The Village shall be entitled to draw on the letter of credit in the event that the solar energy system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified herein. No other parties, including the owner and/or landowner shall have the ability to demand payment under the letter of credit. Upon completion of decommissioning, the owner and/or landowner may petition the

Village to terminate the letter of credit. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial security with the Village at the time of transfer, and every three years thereafter, as provided herein. Failure of a transferee to file evidence of financial security at the time of transfer shall be considered a violation of this Chapter.

- [1] Amount. The amount of the surety shall be determined by the Village Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Village upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.
- (f) Annual report. The Tier 3 solar energy system owner shall on a yearly basis provide the Code Enforcement Officer a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the system and/or the land upon which the system is located and shall identify any change in the party responsible for the decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the system. The Village may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation of this chapter.
- (g) Decommissioning and removal by Village. If the owner or operator of the solar energy system fails to remove it in accordance with the requirements of this section within 90 days of the proposed date of decommissioning, as specified in the Decommissioning Plan, and provide an absent notice of an extension granted by the Board of Trustees, the Village may enter the property and physically remove the installation at the expense of the property owner or against any financial surety assigned to the Village as provided for above. The following procedure shall be used for proceeding with Town removal.
 - [1] Upon a determination of the Code Enforcement Officer that a solar energy system has been abandoned, the Code Enforcement Officer shall notify the system operator, landowner and permittee by certified mail: [a] in the case of a facility under construction, to complete construction and installation of the facility within 180 days; or [b] in the case of a full constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation to the facility to no less than 80% of rated capacity within 180 days, or the Village will deem the system abandoned and commence action to revoke the special use permit approval.

- [2] Being so notified, if the system owner, landowner and/or permittee fails to perform as directed by the Code Enforcement Officer within the 180 day period, the Code Enforcement Officer shall notify the system owner, landowner and permittee, by certified mail, that the system has been deemed abandoned and the Village intends to revoke the special use permit within 60 days of mailing said notice. The notice shall also state that the permittee may appeal the Code Enforcement Officer's determination of abandonment to the Zoning Board of Appeals and request a hearing on the matter.
 - [3] Said appeal and request for hearing must be made and received by the Village within 20 days of mailing the notice. Failure by the permittee to submit an appeal and request for hearing within the 20 day period will result in the special use permit being deemed revoked as stated herein.
 - [4] In the event the permittee appeals the determination of the Code Enforcement Officer and requests a hearing, the Zoning Board of Appeals shall schedule and conduct said hearing within 60 days of receiving the appeal and request. In the event a hearing is held, the Zoning Board of Appeals shall determine whether the system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Zoning Board of Appeals, or whether to revoke the permit and order removal of the system.
 - [5] Upon determination by the Code Enforcement Officer or Zoning Board of Appeals that a special use permit has been revoked, the decommissioning plan must be implemented and the system removed within one year of having been deemed abandoned or the Village may cause the removal at the owner's and/or landowner's expense. If the owner and/or landowner fails to fully implement the decommissioning plan within one year of abandonment, the Village may collect the required surety and use said funds to implement the decommissioning plan.
- (h) Removal by Village and reimbursement of Village expenses. Any costs and expenses incurred by the Village in connection with any proceeding or work performed by the Village or its representatives to decommission and remove a solar energy system, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner. Any costs incurred by the Village for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Village.
 - (i) Prior to scheduled removal of the solar energy system as part of decommissioning or for abandoned systems, a permit for removal activities shall

be obtained from the Code Enforcement Officer. Removal shall include solar collectors, cabling, electrical components, accessory structures, and any associated structures below grade.

§ 169-48 Outdoor lighting standards

- A. Purpose and intent. The purpose of this section is to establish regulations to allow for outdoor illumination levels which are appropriate for the use, while promoting safety and security, and minimizing the undesirable side effects of excessive illumination such as glare, light trespass, and light pollution. Over time, it is the intent that this section will allow for reasonably uniform illumination levels in the community.
- B. Recommended guidance document. Applicants and the Village should refer to the [Municipal Smart City Street Light Conversion & Evolving Technology Guidebook](#), as amended, when planning outdoor lighting.
- B. Applicability and approvals required.
 - (1) Where there is a conflict between this section and state or federal regulations, the more stringent standards shall apply.
 - (2) This section shall apply to all projects subject to subdivision, special use permit, and/or site plan approval.
 - (3) During subdivision, special use and/or site plan application reviews, the Board of Trustees may require a lighting plan be submitted showing the location, number, type/style, mounting height, and lighting levels produced on the ground (i.e., photometric report).
- C. Requirements and standards.
 - (1) Except where more stringent standards are required herein, all outdoor lighting fixtures shall be, at a minimum, shielded, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines and to prevent direct glare at any location on or off the property.
 - (2) Exterior lighting fixtures on commercial, industrial, institutional, and multifamily properties shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA. Where no standard from IESNA exists, the Planning Board shall determine the appropriate level, taking into account levels for the closest IESNA activity.
 - (3) To minimize the indiscriminate use of illumination, lighting, except as required by security, shall be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

- (4) Parking Lots. Parking lots shall not exceed light levels necessary for safety and for locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or design features are incorporated with the intent of eliminating off-site light spillage.
 - (5) Canopy and roof overhang. Lights installed on canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the canopy over overhang. Lights shall not be mounted on the sides or top of the canopy or overhang.
 - (6) Security cameras. Facilities which employ security cameras may employ lighting to ensure proper function during all times when such cameras are in use.
 - (7) Energy efficient/LED lighting shall be required and equal to 3,000 Kelvin or lower to provide good visibility and a warm lighting color.
 - (8) The Village Board of Trustees, in coordination with law enforcement officials, reserves the right to require the outside perimeter of any building to be sufficiently illuminated to facilitate surveillance.
 - (9) Spacing of all lighting shall be as necessary to provide the desired level of lighting, taking into consideration safety, surveillance needs, and light trespass on nearby properties or roadways.
- D. Prohibited exterior lighting. The following types of lighting are prohibited.
- (1) Searchlights, except those used for governmental, emergency, and law enforcement purposes.
 - (2) Strobe lights, laser lights, or revolving lighting.
 - (3) Blinking, pulsating, tracing, or flashing lights, unless temporarily triggered by a security system.
 - (4) Any fixture that may be construed as or confused with a traffic signal, traffic control device or maritime navigational markers.
 - (5) Lighting that is determined by law enforcement personnel to contribute to disabling or distracting glare into a public roadway.
- E. Exemptions. The following uses shall be exempt from the provisions of this section:
- (1) Temporary carnival, circus, religious, historic, or civic use.
 - (2) Construction or emergency lighting, provided that such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.
 - (3) Temporary/seasonal lighting, including holiday lighting.
 - (4) Outdoor light fixtures installed on and in connection with those facilities and land owned or operated by a public utility, the federal government, the State of New York, Albany County, the Village of Menands, or any department, division, agency, or

instrumentality thereof. Voluntary compliance with the purpose and intent of this section at those facilities is strongly encouraged.

- F. Inspections. The Village of Menands reserves the right to request a post-installation nighttime inspection to verify compliance with the provisions of this section and, if appropriate, to require remedial action.
- G. Maintenance. Lighting fixtures shall be maintained so as to always meet the requirements of this section.

§ 169-49 Motor Vehicle Fueling Station

- A. Distance between motor vehicle fueling stations. No motor vehicle fueling station (station) shall be installed within 1,500 feet of any other motor vehicle fueling station, unless such station shall be installed on the opposite side of the street, highway, or thoroughfare, in which event such station shall not be installed within 900 feet of the nearest station.

ARTICLE 10 SITE PLAN REVIEW

§ 169-50 Purpose and general provisions

- A. Purpose. The purpose of this article is to establish clear procedures for review of site plans, establish standardized and clear requirements for site plan applications, assure functional and attractive development, and minimize adverse impacts on the natural and man-made environment. The Village of Menands considers the site plan to be a form of contract between the owner and the public (represented by the Village) in which the Village agrees to permit certain development in return for commitments on the part of the owner to fulfill and maintain all of the requirements of the approved site plan.
- B. Pursuant to Article 7 of the Village Law, the Board of Trustees of the Village of Menands shall review and approve, approve with modifications, or disapprove site plans showing the arrangement, layout, and design of the proposed use of land shown on such plan prepared in accordance with specifications set forth herein.
- C. Prior to the issuance of a building permit for the construction or the modification or alteration of an existing building or structure for a use requiring site plan review pursuant to this chapter, the Code Enforcement Officer shall require the preparation of a site plan showing the arrangement, layout, and design of the proposed use in conformance with the requirements of this article.
- D. The Code Enforcement Officer shall transmit a minimum of five copies of the site plan application and all related material to the Board of Trustees for its review and approval in accordance with the procedures and design and construction standards set forth in the following sections.

§ 169-51 Procedures for review.**A. Preapplication conference.**

- (1) A preapplication conference between the applicant and the Board of Trustees shall be held to review the basic design concept of the proposed project. The applicant shall submit six copies of a statement describing what is proposed and a sketch plan showing the arrangement, layout, and design of the proposed use of land.
- (2) The sketch plan shall be drawn to a scale of one inch equals 20 feet for properties of two acres or less and to a scale of one inch equals 50 feet for properties larger than two acres, unless the Board of Trustees determines a different scale would be more appropriate.
- (3) The sketch plan shall show the following:
 - (a) The applicant's entire parcel and all properties, subdivisions, streets, watercourses and easements which pass through or are within 100 feet of the site boundaries.
 - (b) The location and dimensions of buildings, structures, parking areas, access points, signs, landscaping, architectural features, and any other features commonly considered accessory to the type of facility proposed.
- (4) The preapplication conference may take place at any regularly scheduled meeting of the Board of Trustees. A preapplication conference, not being a public hearing, shall not require public notice as required by a hearing. [Previously Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
- (5) The Board of Trustees shall advise the applicant of the specific elements they must include, any special environmental or other considerations that he must address, and the design and construction standards they must follow in the preparation of the preliminary site plan. [Previously Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]

B. Preliminary site plan submission.

- (1) Except as may be modified by the Board of Trustees as a result of the preapplication conference, the preliminary site plan shall include the following: [Previously Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
 - (a) The title of the drawing, including the name and address of the applicant or owner of record.
 - (b) The North arrow, scale, and date.
 - (c) The name and address of the person, firm or organization preparing the site plan.
 - (d) Boundaries of the property plotted to scale as specified in Subsection A(2) above.
 - (e) Existing watercourses and the direction of drainage flow.

- (f) A grading and drainage plan showing existing and proposed contours at two-foot intervals.
 - (g) The location, proposed use, setback dimensions, and height of all principal and accessory buildings and structures.
 - (h) The location of all existing or proposed site improvements, including storm drains, culverts, retaining walls and fences, water lines and sanitary sewers and connections thereto, permitted signs, lighting facilities, parking areas, access drives and roads, existing vegetation and trees over four inches in diameter.
 - (i) Design and construction details of all the proposed site improvements cited in Subsection B(1)(h) above.
 - (j) A designation of the amount of building area proposed for retail sales, offices or similar commercial activity in terms of gross floor area or gross leasable area in regard to a proposed shopping center.
 - (k) A general landscaping plan and planting schedule.
- (2) Other elements integral to the proposed development, as considered necessary by the Board of Trustees, including identification of any required state or county permits.
 - (3) Should the site be susceptible to flooding, ponding or severe erosion, the applicant shall propose an acceptable solution(s) to these problems as part of his overall preliminary site plan submission.
 - (4) The preliminary site plan submission shall be accompanied by a written statement in which the impact of the proposed use on adjacent land uses and all other environmental considerations requested by the Board of Trustees are discussed and assessed by the applicant. [Previously Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
 - (5) An application for preliminary site plan review and approval shall be accompanied by a fee as established by resolution of the Village Board of Trustees, which fee may be amended from time to time by resolution. [Previously Amended 3-15-2010 by L.L. No. 2-2010; 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
- C. Factors considered in the review of a preliminary site plan. [Previously Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
- (1) The Board of Trustees' review of a preliminary site plan shall include but is not limited to the following considerations, where appropriate:
 - (a) Full conformance with the requirements of these regulations and all applicable zoning provisions.
 - (b) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls.

- (c) The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - (d) The location, arrangement, appearance, and sufficiency of off-street parking and loading areas, including provision for bollards or other protective measures along the front building façade to minimize damage by vehicles.
 - (e) The location, arrangement, size, design and general site compatibility of buildings and signs.
 - (f) The location and arrangement of outdoor lighting and cameras for security purposes.
 - (g) The adequacy of stormwater and drainage facilities.
 - (h) The adequacy of water supply and sewage disposal facilities.
 - (i) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 - (j) The protection of adjacent properties against noise, glare, unsightliness, or other objectionable features.
 - (k) The adequacy of fire lanes and other emergency zones and the provision of fire hydrants as necessary.
 - (l) Special attention to the design of buildings, structures and roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - (m) In the case of townhouses or a multifamily building or complex, the adequacy of usable open space for play areas and informal recreation.
 - (n) Any additional applicable factors identified by the Village Board.
- (2) In its review, the Board of Trustees may consult with the Village Code Enforcement Officer, an engineer or engineering firm designated by the Board, the Superintendent of Public Works, the Fire Chief or other Village and county offices, agencies of the state and federal government, and private consultants.
- (3) The Board of Trustees may conduct a public hearing on the preliminary site plan. If a public hearing is conducted, such public hearing shall be conducted within 60 days of the date the Board of Trustees deems the application complete and shall be advertised in a newspaper of general circulation in the Village at least five days prior to the date of the hearing.
- D. Preliminary site plan approval.
- (1) The Board of Trustees shall render a decision on the preliminary site plan within 60 days after the public hearing or after the application is filed if no hearing has been held. [Previously Amended 2-5-1996; 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]

- (2) The Board's decision shall be in the form of a written statement to the applicant stating whether the preliminary site plan is approved, approved with modifications, or disapproved.
- (3) The Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan. Conformance with such modifications shall be considered a condition of final site plan approval.
- (4) Should the applicant's submission contain the additional material required for final site plan approval as detailed in **Subsection E** of this section and this additional material is acceptable to the Board of Trustees, the Board may give concurrent preliminary and final site plan approval at this stage of the site plan review process. In such case, the Board shall endorse its approval on a copy of the site plan and shall forward such copy to the Building Inspector, who shall then issue the building permit to the applicant. Payment of the final site plan application fee will not be required in this instance. [Previously Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
- (5) If the preliminary site plan is disapproved, the Board's statement shall contain the reasons for disapproval. In such case, the Board may recommend further study of the site plan and resubmission of a preliminary site plan following revision or redesign.

E. Submission of a final site plan.

- (1) After receiving approval, with or without modifications, from the Board of Trustees on a preliminary site plan, the applicant shall submit five copies of an application and the final detailed site plan to the Board for approval. If more than six months have elapsed since the time of the Board's action on the preliminary site plan and if the Board finds that conditions have changed significantly in the interim, the Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. [Amended 4-19-2010 by L.L. No. 3-2010; 4-29-2011 by L.L. No. 1-2011]
- (2) The final detailed site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
- (3) The following additional information and certification shall accompany an application for final site plan approval:
 - (a) A record of application for and approval status of all necessary permits from state and county officials.
 - (b) Detailed material specifications and construction details for all proposed improvements.
 - (c) An estimated project construction schedule.
 - (d) The signature and seal of a licensed professional engineer, architect or surveyor or any combination thereof.

- (4) An application for final site plan review and approval shall be accompanied by a fee as established by resolution of the Board of Trustees, which fees may be amended from time to time by resolution. [Previously Amended 4-19-2010 by L.L. No. 3-2010]
- F. Final site plan approval. Within 60 days of receipt of the application for final site plan approval, the Board of Trustees shall render a decision to the Building Inspector.
 - (1) Upon approval of the final site plan and payment by the applicant of all fees, disbursements, whether reimbursable or not, costs and expenses due to the Village, the Board shall endorse its approval on a copy of the final site plan and shall forward such copy to the Code Enforcement Officer. The Code Enforcement Officer shall then issue the building permit to the applicant.
 - (2) Upon disapproval of a final site plan, the Board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny a building permit to the applicant. The Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval.
- G. Expiration.
 - (1) A site plan shall expire for any of the following reasons:
 - (a) The site plan use(s) cease for more than twelve (12) consecutive months for any reason.
 - (2) The applicant fails to obtain the necessary building permit(s) for the approved use(s) within twelve months of the site plan approval.
 - (3) The applicant fails to commence and diligently pursue construction within twelve (12) months of the site plan approval.
 - (2) The Village Board of Trustees may, in its sole discretion and at the applicant's request made at least 60 days prior to the expiration of the initial site plan approval, as provided for in Subsection 1 above, grant the applicant a onetime extension of up to a maximum of twelve (12) months within which to implement the site plan, provided the applicant has made reasonable, good faith efforts to complete construction and implement the site plan. No further extensions shall be permitted.

§ 169-52 Design and construction standards.

- A. The Village of Menands Subdivision Design and Construction Standards (Chapter A173) shall govern for all paving, utility and miscellaneous construction indicated on final site plan submissions, both on private land and on public land. Construction not covered by these standards shall be in accordance with recognized good practice. All methods not covered by the above-cited standards require approval of the Village Building Department before construction begins.

- B. The design and construction standards for all buildings and other structures indicated on the final site plan shall be governed by the requirements of the Village of Menands Building Code¹ and all other applicable ordinances and local laws.
- C. The Village Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Superintendent of Public Works and other officials and agencies, as appropriate.
- D. Vehicle impact protection devices. Vehicle impact protection devices shall be required for all parking spaces that front any sidewalk, outdoor pedestrian seating area, or building façade.
 - (1) Location. The vehicle impact protection device shall be located between the parking space and the edge of the sidewalk, pedestrian seating area or the building façade.
 - (2) Specifications. Vehicle impact protection devices may take the form of bollards, barriers, or a combination of both. Alternative forms of vehicle impact protection devices may be proposed to the satisfaction of the Village Board.
 - (3) Spacing. Bollards shall be placed so that two (2) bollards are provided for each parking space and shall be spaced between fifty-four (54) and sixty-four (64) inches apart from one another as measured from the outer perimeter of each bollard. In the case of parking spaces that are either compact or legal non-conforming in width, a distance of less than fifty-four (54) inches may be permitted between the bollards; however, in no instance shall the distance from the bollard to the outside parking space limit line exceed thirty (30) inches. Barriers shall be designed and located so as to provide protection that is equivalent or superior to that provided by bollards. Gaps between barriers shall not exceed fifty-four (54) inches. Barriers may be placed in staggered or offset rows so long as any gap between barriers does not exceed fifty-four (54) inches.
 - (4) Design.
 - (a) Performance standards. All vehicle impact protection devices shall be engineered and determined to be in compliance with low-speed vehicle impact testing standards prescribed by the American Society of Testing and Materials ASTM F3016. Compliance with the ASTM F3016 shall be confirmed and certified by a bollard manufacturer or structural engineer and reviewed for conformance by the Village Engineer or Code Enforcement Officer.
 - (b) Height. Bollards shall be set with the top of the device not less than three (3) feet and not greater than four (4) feet in height as measured from the finished grade immediately adjacent to the perimeter of the bollard. Barriers shall be set with the top of the device not less than three (3) feet in height as measured from the finished grade adjacent to the perimeter of the barrier.
 - (c) Scale and design. The scale and design of the bollard or barrier shall be proportional to the size of the building so as not to detract from the appearance

¹ Editor's Note: See Ch. 71, Construction Code, Uniform, and Ch. 90 Fire Prevention and Building Construction

of the building. The devices shall not detract from the appearance of the adjacent building, where applicable, and shall be an earth-toned color, black, grey, or another color determined to be appropriate by the Village Board. Incorporation of plantings and other landscaping into the devices are strongly encourage and may be required at the discretion of the Village Board.

- (5) Minor adjustments. The Village Board may approve minor modifications to any of the vehicle impact protection standards contained in this section to accommodate for the location of above-ground or underground utilities, other existing or planned features of the development, or any other constraints or limitations towards compliance with the provisions established by this section; provided, that the modifications achieve protections which are functionally equivalent to those intended by this section; the Code Enforcement Officer shall have the same discretion and authority to modify the vehicle impact protection standards herein when site plan approval is not required.

§ 169-53 Escrow.

- A. The Village may require an applicant to deposit in escrow a reasonable amount established by the Village to pay for the fees and/or costs of any engineer, consultant or attorney designated or hired by the Village to review any application for a building permit or site plan review, or approval of such application. The fee and/or costs charged by such engineer, consultant, or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount held in escrow will be at the sole discretion of the Village. Any amount remaining shall be returned to the applicant within 45 days of final action on the application.

ARTICLE 11. SPECIAL USE PERMIT REVIEW

§ 169-54 Purpose and general provisions.

- A. Purpose. The purpose of this article is to set forth the application procedure for consideration of special uses within individual zoning districts. These procedures apply to certain land uses and activities which, due to their particular characteristics or the nature of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.
- B. Pursuant to Article 7 of the Village Law, the Board of Trustees of the Village of Menands shall review and approve, approve with modifications, or disapprove a special use permit for all uses requiring a special use permit in accordance with this chapter and pursuant to the rules and specifications set forth herein.

§ 169-55 Special use permit review procedure.

A. Preapplication conference.

- (1) A preapplication conference between the applicant and the Board of Trustees shall be held to review the applicant's conceptual proposal. The applicant shall provide the Board of Trustees with five copies of a sketch plan accompanied by a narrative description of the proposed special permit use.
- (2) The preapplication conference may, in the sole discretion of the Board of Trustees, be scheduled simultaneously with any preapplication conference regarding site plan review or subdivision approval.

B. Application. Applications for special permits shall be made to the Board of Trustees on forms prescribed by the Board of Trustees. Each application for special permit shall include:

- (1) A general description of the proposed use;
- (2) A written statement specifically addressing each of the standards set forth in **§ 169-56, (Special Use Permit Standards)** this article;
- (3) A site plan of sufficient scale and detail to allow a thorough evaluation of the standards and requirements of this article;
- (4) The required filing fee; and
- (5) Such additional information as may be required by the Board of Trustees or its consultant to demonstrate compliance with any conditions or additional standards which may be imposed on the special use by the Board of Trustees.

C. Public hearing and decision.

- (1) The Board of Trustees shall conduct a public hearing within 62 days from the day an application for a special permit is deemed complete by the Board of Trustees.
- (2) Public notice of such public hearing shall be printed in the official newspaper of the Village of Menands at least five days prior to the date of the public hearing.
- (3) The Board of Trustees shall render a decision regarding the application within 62 days from the close of the public hearing or such longer time as is necessary to comply with the requirements of the State Environmental Quality Review Act (SEQRA). The time within which the Board of Trustees must render a decision may be extended by mutual consent of the applicant and the Board of Trustees.
- (4) The Board of Trustees shall render a written decision approving, approving with conditions, or disapproving the application for a special use permit.
- (5) The Board of Trustees shall send written notice to the applicant for a special use permit of the Board's decision within five days after the decision is rendered.

§ 169-56 Special use permit standards.

- A. Before granting approval to any special use, the Board of Trustees shall determine whether the proposed special use will, among other things, satisfy the following criteria and considerations:
- (1) The use will not have an adverse impact or effect upon adjacent property or the character of the neighborhood or community.
 - (2) The use will not cause an adverse impact or effect on traffic conditions, parking, utilities, services, or other matters affecting the public health, welfare or convenience.
 - (3) The use will not adversely affect other uses within the district.
 - (4) The use will be in harmony with surrounding uses and with the orderly development of the district.
 - (5) The use will not discourage the appropriate development and/or use of adjacent land.
 - (6) The use will be adequately served by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water, sewer, and schools.
 - (6) The use will not be objectionable to nearby properties by reason of noise, fumes, vibration, illumination and other impacts.
 - (7) The use will not adversely affect property values in the vicinity.
 - (8) The public health, safety, general welfare or order of the Village will not be adversely affected by the proposed use in its location.
 - (9) Such other factors that may be relevant to the use proposed in relation to the impact of the use on the community.
- B. If the Board of Trustees approves the use, the Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special permit. All such conditions shall be complied with by the applicant.

§ 169-57 Revocation or expiration of special permits.

- A. The Board of Trustees may, on its own motion, revoke any special permit if there is a material failure to comply with any one of the conditions, terms, limitations, and requirements set forth in the permit. No permit shall be revoked unless the Board of Trustees, on due notice to the permittee, holds a hearing. If the Board of Trustees finds that the permit was violated, it shall direct the issuance of an order revoking the permit or directing the Village Building Inspector to implement such other remedy as the Board of Trustees shall find necessary and convenient to ensure compliance with the terms of the permit and the Zoning Law of the Village of Menands.
- B. A special use permit shall expire for any of the following reasons:

- (1) The use(s) permitted by the special use permit ceases for more than twelve (12) consecutive months for any reason.
 - (2) The applicant fails to obtain the necessary building permit(s) for the approved use(s) within twelve months of the special use permit approval.
 - (3) The applicant fails to commence and diligently pursue construction within twelve (12) months of the special use permit approval.
- C The Village Board of Trustees may, in its sole discretion and at the applicant's request made at least 60 days prior to the expiration of the initial special use permit approval, as provided for in Subsection B above, grant the applicant a onetime extension of up to a maximum of twelve (12) months within which to implement the special use, provided the applicant has made reasonable, good faith efforts to complete construction and implement the site plan. No further extensions shall be permitted.

§ 169-58 Amendment or modification of special permits.

- A. An amendment or modification to an existing special use is any change or proposed change in the size or configuration of the buildings, structures or appurtenances associated with the facilities in which the special use is located or conducted.
- B. Any amendment or modification to any existing special use permit shall be considered a proposed new special use requiring the permittee to file an application for a special use permit pursuant to this article.

ARTICLE 12. ZONING BOARD OF APPEALS

§ 169-59 Establishment; appointments; organization

- A. A Zoning Board of Appeals (Board of Appeals) is hereby established pursuant to the provisions of § 7-712 of the Village Law. The Board shall consist of three members and an alternate, each of whom shall be appointed by the Board of Trustees for a term of three years; the Board of Trustees shall designate one of said members as Chairman thereof.
- B. A vacancy occurring for reason other than by expiration of a term shall be filled by the Board of Trustees by appointment for the unexpired term only.
- C. The Board of Appeals shall have the power to make, adopt and promulgate such written rules of procedure, bylaws, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter. Such rules, bylaws, and forms shall not be in conflict with nor have the effect of waiving any provision of this chapter or any other law of the Village of Menands.
- D. Alternate members. The Board of Trustees may appoint up to two (2) alternate members, with each such position having a term of one (1) year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a

conflict of interest. All provisions relating to members of Board of Appeals, including training, continuing education, attendance, and compensation apply to alternative members. The Chairman shall determine when an alternate member shall substitute for a member on any particular application or matter before the Board. Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted for to make determinations. The minutes of the Board of Appeals shall reflect the meeting at which the substitution is made.

§ 169-60 General procedures

- A. Meetings. All meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as such Board may determine, and a quorum of the Board's membership is required for any meeting. All meetings of such Board shall be open to the public.
- B. Oaths. The Chair or, in their absence, the Acting Chairman may administer the oath and compel the attendance of witnesses.
- C. Minutes. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Village Clerk and shall be a public record.
- D. Rules and regulations. The Board of Appeals is hereby authorized to establish rules and regulations not inconsistent with this chapter or the statutes authorizing the same and may modify, amend, or repeal such rules. Every such rule, regulation, amendment, or repeal thereof shall be filed in the office of the Village Clerk and shall be a public record.

§ 169-61 Powers and duties.

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

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

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (d) The alleged hardship has not been self-created.

[1] The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven 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.

[2] Notifications. At the time of submission of the application for a use variance, the applicant shall submit, in addition to otherwise required documentation, the following:

- [a] A reproduced copy of the Tax Map or extract of the Tax Map depicting the parcel(s) of land in question and all lands within 500 feet distance from the perimeter thereof.
- [b] A schedule of the names and addresses of the property owners within 500 feet distance from the perimeter of the parcel in question as ascertained from the office of the Village Assessor.
- [c] Satisfactory proof that the property owners within 500 feet of the perimeter of the parcel have been notified in writing of the nature of the request for a use variance (include a brief narrative). Such notification shall include the following written statement: "An application for a use variance for lands within 500 feet of your property is being proposed. The permit application will be filed with the Building Department of the Village of Menands and may be reviewed by you during normal business hours at Village Hall. Please contact the Building Department if you have any questions about the procedures to review this application and the process for consideration of the proposal." Proof shall be deemed satisfactory for purposes hereof if the applicant provides evidence of mailing, by certified or registered mail, or certificate of mailing and files the receipts with the submission. Regular mail is not satisfactory notice.
- [d] In the event that the applicant or a related company or corporation owns lands adjacent to the parcel in question, then, in such event, the notice

required herein shall be provided to property owners within 500 feet of the parcel adjacent to the parcel in question.

- [3] Referral of the application. The Zoning Board of Appeals shall refer all applications and accompanying documentation for the use variance to the Albany County Planning Board pursuant to General Municipal Law § 239-m.

C Area variance.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
 - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, which is code compliant and feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (3) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - (a) Notification requirements.
 - [1] Applications for area variances for residential uses. The following persons shall be notified at least 10 days prior to the first hearing on an application for area variances by owners of residential property: all owners of property abutting, contiguous to or adjacent to the property for which the variance is sought.
 - [2] Applications for area variances for nonresidential uses. The following persons shall be notified at least 10 days prior to the first hearing on an application for an area variance by owners of nonresidential property: owners of all property within 500 feet of the perimeter of the subject parcel.

- [3] In each case, the notification shall identify the subject parcel for which the variance is sought, a brief summary of the relief sought, the time of the first public hearing thereon, and a statement that the application may be reviewed in the Building Department during normal business hours. Please contact the Village Building Department if you have any questions about the process for consideration.
- (4) The concurring vote of a majority of the Board shall be necessary to grant either an area or use variance.

§ 169-63 Procedures regarding appeals or variance

- A. Filing of administration decision. Each order, requirement, decision, interpretation, or Code Enforcement shall be filed in the Building Department within five business days from the day it is rendered and shall be a public record.
- B. An appeal shall be taken within 60-days after the filing or any order, requirement, decision, interpretation, or determination of the Code Enforcement Officer, by filing with the Code Enforcement Officer and the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The Code Enforcement Officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- C. Who may appeal. An appeal to the Board of Appeals for administrative review or variance may be taken by any person, firm, or corporation or by any government officer, department, board, or bureau affected by any decision of the Code Enforcement Officer or other administrative officer based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the Board of Appeals and the Code Enforcement Officer a notice of appeal specifying the grounds thereof. The Code Enforcement Officer shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appeal from was taken.
- D. Time of appeal
 - (1) In the case of the refusal of the Code Enforcement Officer to issue a building permit or a certificate of occupancy, said notice of appeal shall be filed within 62 days from the date upon which such notice of refusal of building permit or certificate of occupancy is mailed by the Code Enforcement Officer. Failure to file such notice of appeal within 62 days shall constitute a waiver of the right of appeal.
 - (2) In the case of the granting by the Code Enforcement Officer of a building permit or a certificate of occupancy, said notice of appeal shall be filed within 62 days from the date upon which such notice of granting of building permit or certificate of occupancy is mailed by the Zoning Enforcement Officer or within 30 days after construction is commenced under said building permit or occupancy is commenced under said certificate of occupancy. Failure to file such notice of appeal within the time limited above shall constitute a waiver of the right of appeal.

- E. Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer from which the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.
- F. Notification requirements
- (1) Applications for review of administrative determinations for residential uses. The following persons shall be notified at least 10 days prior to the first hearing on an application for review of administrative determinations by owners of residential property: all owners of property abutting, contiguous to or adjacent to the property for which the review is sought.
 - (2) Applications for review of administrative determinations by nonresidential uses. The following persons shall be notified at least 10 days prior to the first hearing on an application for a review of administrative determinations by owners of nonresidential property: owners of all property within 500 feet of the perimeter of the subject parcel.
 - (3) In each case, the notification shall identify the subject parcel for which the review is sought, a brief summary of the relief sought, the time of the first public hearing thereon, and a statement that the application may be reviewed in the Building Department during normal business hours.
 - (4) Proof of notification shall be filed with the Board prior to the hearing on the application.
- G. Hearing, notice, public notice, notice to parties and costs.
- (1) Hearing. The Board of Appeals shall fix a reasonable time for the hearing of any application for a variance, any appeal for administrative review or any application for a special permit.
 - (2) Notice. The Board of Appeals shall give public notice of the hearing of any application for a variance or any appeal for administrative review in the official paper at least five days prior to the date thereof and shall, at least five days before such hearing, and mail notice thereof to the applicant and shall decide the same within 62 days after the final hearing.
 - (3) Reference to the Albany County Planning Board. In accordance with the policy and procedures provided for by §§ 239-l and 239-m of the General Municipal Law, any proposed variance affecting land or buildings within 500 feet of the boundary of the Village of Menands or from the boundary of any county or state park or other recreational area or from the right-of-way of any county or New York State park, thruway, expressway or other controlled-access highway or from the right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines or from the boundary of any county- or state-owned land

in which a public building or institution is situated, shall be referred to the Albany County Planning Board. If the Albany County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such approval or recommendation, except by a majority vote of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

- H. Provisions of appeal. If the variance is granted or other action by the appellant or applicant is authorized, the necessary permit shall be subject to the terms of § 71-4 (Building Permits) of Chapter 71 (Construction Code, Uniform) of the Village of Menands Code. Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn and abandoned the appeal or the application and such permission and variances granted shall be deemed automatically rescinded by the Board of Appeals.
- I. Rehearing. Upon motion initiated by any member and adopted by the unanimous vote of the members present but not less than a majority of all the members, the Board of Appeals shall review at a rehearing, held upon notice given as upon an original rehearing, any order, decision, or determination of the Board not previously reviewed. Upon such rehearing, and provided that it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision or determination reviewed will not be prejudiced thereby, the Board may, upon the concurring vote of all of the members then present, reverse, modify or annul its original order, decision, or determination.
- J. Filing fees. The Zoning Board of Appeals shall charge those fees determined by the Board of Trustees by resolution, which fees may be amended from time to time by resolution.
- K. Expiration of variances. Any variance not exercised within one year of its being granted by the Board of Appeals shall terminate without further hearing.

ARTICLE 13. PLANNED DEVELOPMENT DISTRICT

§ 169-64 Intent.

- A. Planned development districts (PDDs) provide a procedure for allowing flexible land use and design through creative planning and design. PDDs allow development matched to the unique characteristics of the site and allow innovative development techniques that might not otherwise be possible through strict application of standard use, area, bulk, and density specifications.
- B. Approved PDDs will enable greater flexibility than conventional zoning while providing a customized regulatory framework that recognizes the unique environmental, physical, and cultural resources of the project and neighborhood. PDD legislation adopted by the Village Board will replace existing zoning for the parcel or parcels becoming PDDs and will become the basis for detailed design, review, and control of subsequent development.

- C. Planned development districts shall advance the goals of the Village's various planning documents that promote innovation in the design and layout of structures and encourage compact, pedestrian-oriented development and redevelopment, ensure adequate provision of community services, preserve significant natural features, and permanently protect open space resources.
- D. Planned Development Districts shall encourage a mix of uses on one site that result in a cohesive unified project which would otherwise not be attainable through traditional zoning. The intent of the PDDs is not to circumvent the variance or traditional zoning amendment process in order to establish single uses which would not normally be allowed by the underlying zoning district.
- E. While flexibility is encouraged, it is intended that the conformance with municipal service availability and the purposes of this chapter shall ensure that the general welfare is protected through equal treatment under this uniform procedure. The Village Board shall consider the health, safety, and welfare of the residents, as well as the aesthetics of all proposed project approvals.

§ 169-65 Objectives.

In order to carry out the intent of this chapter, all approved PDDs shall:

- A. Produce a development pattern in harmony with the land use intensity, transportation facilities, and community facilities within the vicinity of the project area.
- B. Preserve significant natural topography, geological features, scenic vistas, and ecosystems.
- C. Prevent the disruption of natural drainage patterns, soil erosion, and uncontrolled surface water drainage.
- D. Preserve and integrate historically significant structures and sites with viable adaptive uses.
- E. Use land efficiently, resulting in smaller networks of streets and utilities and thereby lower development and maintenance costs.
- F. If residential in land use, provide a maximum choice in occupancy tenure (e.g., individual ownership, leaseholds, and condominiums), type of housing (e.g., detached houses, townhouses, garden apartments), lot size, and community facilities.
- G. Provide an adequate and integrated system of open space and recreation areas designed to tie the PDD together internally and link it to the larger community.
- H. Use creative design on the site which allows for an orderly transition of land uses.
- I. Adhere to any applicable economic conditions, post-development agreements, regional or Village plans, or environmental mitigation which may be required.

§ 169-66 General standards.

- A. Except where otherwise noted below, the existing use, dimensional, sign and parking regulations may be altered in order to establish a planned development district; provided, however, that the standards are met.
- B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In cases of ownership by multiple parties, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.
- C. Location of Planned Development Districts. Planned development districts may be proposed in any Zoning District.
- D. Minimum area. The minimum area required for a Planned Development District shall not be less than 10 contiguous acres in Residential Districts and not less than 5 contiguous acres in non-Residential Districts.
- E. For PDDs proposed within the BBD, T4, and T5 Districts, residential density, building and parking setbacks, and building height and façade requirements set forth in **Article 3, (Broadway Corridor Form Based Districts)** of this chapter shall not be modified without an area variance.
- F. The construction of new roads shall comply with the requirements of **Article 6, (Complete Streets Regulations)** of this chapter.
- G. The parking maximums set forth in **Article 8, (Automobile and Bicycle Parking)**, of this chapter, shall not be exceeded without adequate justification demonstrating need.
- H. Water supply and sewage disposal. PDDs which include a significant number of residential units should be served by a community water system and be provided with sewage disposal facilities, if appropriate, in accordance with the requirements of the Village, the county and the New York State Departments of Health and Environmental Conservation. PDDs shall not impose an undue burden upon essential public facilities and services.

§ 169-67 Application review and approval procedure

- A. General. Whenever a PDD is proposed, before any zoning and building permit shall be granted, and before any subdivision plot may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such planned development district in accordance with the following procedures.
- B. Sketch plan review procedure.
 - (1) Prior to the formal filing of a PDD application, the applicant shall submit a sketch plan of the proposal to the Village Board.
 - (2) The sketch plan may include:

- (a) A map identifying the boundaries and physical characteristics of the proposed PDD, including uses and ownership of abutting lands.
 - (b) A conceptual development plan including a succinct narrative of the intent and attributes of the proposed district(s) that describes the location, conceptual design, and use of any lots and structures.
 - (c) The proposed amount, location, and use of open space.
 - (d) Any anticipated changes in the existing topography and natural features.
 - (e) The location of the site with respect to nearby streets, rights-of-way, adjacent properties, easements, utilities, and other pertinent features within 200 feet.
 - (f) The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
 - (g) Preliminary use and dimensional requirements, including:
 - [1] Permitted uses, conditional and accessory uses;
 - [2] Maximum development intensity of residential uses;
 - [3] Floor area ratio for nonresidential uses;
 - [4] Lot coverage;
 - [5] Build-to distances from public and private ways;
 - [6] Setbacks for structures and parking areas; and
 - [7] Minimum lot size.
 - (h) In addition, the following documentation shall accompany the sketch plan:
 - [1] Evidence of how the proposed mix of land uses is compatible with the goals of local and area-wide plans.
 - [2] General statement as to how common open space is to be owned and maintained.
 - [3] Description of ownership of the site.
 - (i) Application fee as determined by the Village Board.
- (3) During sketch plan review, the Village Board, in its legislative capacity, establishes the boundaries of the proposed PDD and set limits on the nature and range of uses, geometric and site controls, and overall project planning. Specifically, the Village Board shall review the sketch plan according to the following criteria:
- (a) The proposal conforms to the Village's various planning documents.
 - (b) The proposal meets local and regional needs.

- (c) The proposal meets the applicable purpose, intent and objectives and requirements of this chapter and section.
- (4) Village Board sketch plan decision.
 - (a) Within 30 days of submittal of the PDD sketch plan and/or additionally requested information, the Village Board shall reject or accept the sketch plan application as complete.
 - (b) Within 45 days of acceptance of the sketch plan as complete, the Village Board shall take action to approve, with or without conditions, or disapprove the proposed PDD sketch plan, based on the criteria set forth above.
 - (c) If the Village Board determines in its discretion that the sketch plan does not merit further consideration and should be denied because it does not meet the purpose, intent, objectives, and requirements of this chapter and section or other considerations of this chapter, no further action on the application shall be taken. A written decision by the Village Board shall be provided to the applicant.
 - (6) If the Village Board determines the application has merit to proceed and should be approved with or without conditions, the applicant may proceed to formal PDD application.
- C. Formal application.
 - (1) After sketch plan review is complete, a formal application for establishment of a planned development district shall be made in writing to the Village Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the SEQRA.
 - (2) The Village Board shall refer the application according to the requirements of General Municipal Law §§ 239-m, 239-n, and 239-nn and SEQRA.
 - (3) The formal application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Village Board to make the findings required under this section. Fully engineered plans and construction details are not required at this stage in the process; however, the level of detail shall be sufficient to provide the Village Board with enough information to understanding the proposed PDD. The following information is required:
 - (a) The desirability of the proposed land use in the proposed location.
 - (b) The existing character of the neighborhood.
 - (c) Access, circulation, parking, and transportation management.
 - (d) Proposed location, type and size of signs and driveways.
 - (e) Existing state, county, or Village highways that provide access to the area.

- (f) Vehicular traffic circulation features, including proposed highways and roadways within the PDD.
- (g) Multi-modal (bikes, pedestrians, etc.) accessibility and navigation through the district.
- (h) The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity.
- (i) The conceptual footprint, height and bulk of buildings and the intended use for such buildings.
- (j) Other site improvements.
- (k) Phasing program if phases are proposed.
- (l) General landscaping concept and features.
- (m) Preservation of open space and natural areas, including the amount and location of open space, recreation area, and pedestrian circulation areas and provisions for permanent protection.
- (n) Infrastructure improvements, including water supply source and delivery, drainage, and energy.
- (o) The general plan for the collection and disposal of sanitary wastes.
- (p) The proposed safeguards to be provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general (if a full environmental assessment form was provided instead of a draft EIS).
- (q) Compatibility with the Village's various planning documents.
- (r) Permitted uses, conditional and accessory uses.
- (s) Maximum development intensity of residential uses.
- (t) Floor area ratio for nonresidential uses.
- (u) Lot coverage.
- (v) Build-to distances from public and private ways.
- (w) Setbacks for structures and parking areas.
- (x) Minimum lot size.
- (y) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas.
- (z) Minimum lot frontages and building massing.
- (aa) Preservation of historic structure(s).
- (bb) Design standards and guidelines.

- (cc) A proposed amendment to the Zoning Code, including, at a minimum, a written metes and bounds description of the property and standards for development.
- (dd) All material and data necessary to conduct review under the State Environmental Quality Review Act.

§ 169-68 Required findings

- A. The Village Board may require such changes in the preliminary plans as are found necessary or desirable to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.
- B. The Village Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:
 - (1) That the PDD is consistent with the objectives and standards of this chapter.
 - (2) That adequate community facilities and services exist and/or are to be accommodated as part of this planned development.
 - (3) That the PDD establishes a mix and a physical development pattern which would not be attainable through a traditional zoning amendment, as described in this Code.
 - (4) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Village's various planning documents.
 - (5) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable.
 - (6) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas.
 - (7) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the predevelopment open space resources potentially available for protection.
 - (8) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.

§ 169-69 Village Board action

- A. Upon completion of the findings, the Village Board may then consider the legal establishment of the planned development district through a Zoning District Map amendment. In particular, any application for the creation of a planned development district shall be considered a Type 1 action under SEQRA.

- B. The Village Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Village Law of the State of New York.
- C. The Village Board shall render a decision on the application within 62 days of the public hearing, unless an extension of time is agreed to by the applicant and Village Board, according to the following criteria:
 - (1) That the PDD is consistent with the purpose and intent of this Code including, where applicable, the objectives and standards of this chapter;
 - (2) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the surrounding neighborhood;
 - (3) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;
 - (4) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
 - (5) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the predevelopment open space resources potentially available for protection;
 - (6) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection; and
 - (7) The Village Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:
 - (a) Visual and acoustical screening.
 - (b) Land use mix.
 - (c) Pedestrian and vehicular circulation system.
 - (d) Parking and snow removal.
 - (e) Sites for public services.
 - (f) Protection of natural and/or historical features.
 - (g) Requirements or conditions identified during the SEQR process and/or voluntary agreements between the applicant and the community, including economic incentives or infrastructure improvements.
- D. If the zoning change is approved by the Village Board, the Official Village Zoning Map shall be amended so as to define the boundaries of the planned development district,

and such amendment shall be advertised and recorded in accordance with the requirements of the New York State Village Law.

§ 169-70 Site plan review within established PDD.

- A. Application. Application for approval of a building project within an established planned development district shall be made in accordance with the procedures for site plan review. Application shall be made by the owner(s) or developer(s) of the area to be occupied by the building project.
- B. No building permit or certificate of occupancy shall be issued for any project within a PDD until the Village Board determines that the proposed project is consistent with the approved PDD.
 - (1) The development standards approved by the Village Board shall guide the planning and design of subsequent projects and/or phases of development within the PDD.
 - (2) A building project within a planned development district shall conform in all respects to the approved plans.
 - (3) The Village Board, as appropriate, shall document that the following requirements have been met prior to approval of a development project within a PDD.
 - (a) The project is in conformance with the approved planned development district.
 - (b) The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project.
 - (c) All other zoning requirements of the district, except those modified or specifically deemed not applicable by the administrative officer, shall be met.
 - (d) The development plan shall specify reasonable periods within which development of each phase of the planned development may be started and shall be completed.

§ 169-71 Subdivision review.

Applications for subdivisions in a planned development district shall be made to the Village Board in accordance with Village of Menands Code **Chapter 148, (Subdivision of Land)**. In the event of a conflict between the subdivision regulations and this chapter or any requirement imposed hereunder, the provisions of this chapter of such requirements shall apply.

§ 169-72 Consultant review fees.

The Village Board may require an applicant for any review, permit or approval to deposit in escrow a reasonable amount established by the Village Board to pay for the fees and/or costs of any engineer, consultant or attorney designated by the Village Board to review such application. The fees and/or costs charged by such engineer, consultant or attorney in

connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within 45 days of final action on the application.

§ 169-73 Conditions run with the land.

All conditions imposed by the Village Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

§ 169-74 Expiration of approval.

A. PDD legislation repealer.

- (1) The Village Board shall act to return the property to its prior zoning district classification if it finds that:
 - (a) Performance requirements which may have been specified by the Village Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development, have not been met, unless the Village Board, upon specific application and for a good cause, authorizes an extension of such performance requirement.
 - (b) The PDD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Village Board, which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.
- (2) If a planned development district expires, any building constructed or used may continue as a nonconforming use and such shall continue to be bound by the previous PDD approval.

§ 169-75 PDD amendment procedure.

- A. An application for the amendment of an established planned development district shall be made in writing to the Village Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by SEQRA.
- B. The application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Village Board to make the findings required under this section.

- C. Procedure. The procedure for an amendment of an existing PDD shall be the same as that required to establish a new PDD, as described herein.

ARTICLE 14 NONCONFORMING USES, BUILDINGS AND STRUCTURES

§ 169-76 Continuation.

Except as provided in **§§ 169-77 and 169-78** of this chapter, any use of land or a building or structure or part thereof lawfully existing at the time that this chapter or any amendment hereto becomes effective may be continued, subject to the provisions of **§§ 169-79 through 169-83** of this chapter, although such building or structure or use does not conform to the provisions of the district in which it is situated. No unlawful use of property or unlawful building or structure existing on the effective date of this chapter shall be deemed a nonconforming use, structure or building.

§ 169-77 Abandonment

When a nonconforming use has been discontinued for a period of one year, it shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this chapter.

§ 169-78 Billboards and signs²

Notwithstanding any other provision of this chapter, any nonconforming billboard, sign or advertising device in existence in any residential district on the effective date of this chapter or an amendment thereto shall be discontinued within three years from the effective date of such adoption or amendment. See **Chapter 138, Signs and Billboards**.

§ 169-79 Change.

No nonconforming use shall be changed to any use other than a conforming use for the district in which it is situated.

§ 169-80 Alterations and extensions.

Alterations and extensions of a nonconforming use, in order to comply with the provisions of this section, are permitted, provided that such alterations or extensions shall not tend to increase an inherent nuisance nor shall such alterations or extensions violate any provisions of this chapter regarding yards, lot area or lot coverage for the district in which the use is situated or to increase any existing violation of such provisions.

² See also Ch. 138. Signs and Billboards.

§ 169-81 Restorations.

- A. Any building or structure containing a nonconforming use or any structure constituting a nonconforming use which is damaged by fire, flood, wind or other act of God or man may be repaired or reconstructed only by the owner and then only to the same nonconforming use. The restored area shall be of substantially the same size, and the nonconforming use may not be enlarged or expanded.
- B. Any building or structure containing a nonconforming use or any structure constituting a nonconforming use which is damaged by fire, flood, wind or other act of God or man may be repaired or reconstructed in conformity with this chapter only if such reconstruction is completed within 18 months of the damage.

§ 169-82 Construction, reconstruction, or alteration.

- A. Except as otherwise heretofore set forth, no building or structure designed for or intended to be utilized for a nonconforming use shall be constructed, reconstructed or altered unless construction, reconstruction or alteration is already underway on the effective date of the enactment of this chapter and is being diligently pursued so that such building or structure will be completed within 18 months from the effective date of this chapter. All outstanding building permits for construction, reconstruction or alteration which do not meet these requirements shall be rendered null and void by the enactment of this chapter.

§ 169-83 Exemptions.

- A. The limitations of **§§ 169-81** and **169-82** hereof shall not apply to a building or other structure utilized as a dwelling or accessory thereto which is nonconforming only in respect to yard space or land area per dwelling and nonconforming to the district in which located, except no building shall be altered, added to or reconstructed to extend further into an already-deficient yard space or to reduce an already-deficient amount of land area per dwelling.

ARTICLE 15 ENFORCEMENT AND ADMINISTRATION**§ 169-84 Enforcement, penalties for offenses**

- A. Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer, who shall be appointed by the Village Board, to enforce the provisions of this chapter and of all rules, conditions and requirements adopted or specified pursuant thereto, or by other such officer as the Village Board may, from time to time, designate.
- B. Powers and duties of the Code Enforcement Officer

- (1) The Code Enforcement Officer, or an authorized deputy, shall have the right to enter any building or enter upon any and all land at any reasonable hour as necessary in the execution of his or her duties, provided that:
 - (a) The Code Enforcement Officer, or authorized deputy, shall display identification signed by the Village Mayor upon commencing an inspection.
 - (b) The Code Enforcement Officer, or authorized deputy, shall first make reasonable efforts to alert any occupants present at the time of the inspection to identify himself or herself and the reason for the inspection.
 - (2) The Code Enforcement Officer shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter and of the action taken on such complaint. These records shall be public records.
 - (3) The Code Enforcement Officer, or authorized deputy, are authorized to issue desk appearance tickets as defined in §150.10 of the Criminal Procedure Law of the State of New York to enforce the provisions of this chapter and all rules, conditions, and requirements adopted or specified pursuant thereto. Such desk appearance ticket shall be returnable within thirty (30) days in the Village of Menands Justice Court.
 - (4) The form of the desk appearance ticket issued by the Code Enforcement Officer, or authorized deputy, shall be governed by the Criminal Procedure Law and the Uniform Justice Court Act of the State of New York. The content of such appearance ticket and the method of prosecution thereunder shall always be subject to the Criminal Procedure Law and the Uniform Justice Court Act of the State of New York.
 - (5) In January of each year, the Code Enforcement Officer shall annually submit to the Village Board a written report summarizing all complaints of violations and actions taken as a result of such complaints since the date of the last report.
- C. Penalties for violations.
- (1) Any person committing an offense against any provision of this chapter or violating any provision or requirement of any statement, site plan, application, permit, or certificate approved under the provisions of this chapter shall be punishable by a fine not exceeding Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars or imprisonment for a period not to exceed fifteen (15) days, or both.
 - (2) The owner of premises shall be responsible for compliance with all the requirements of this chapter, and it is no defense that the culpable action or failure to act may have been done by others. The foregoing notwithstanding, any person who commits, takes part, or assists in a violation or who maintains any building or premises in which any such violation exists shall also be guilty of a violation.
 - (3) Written notice of any alleged violation of this chapter shall be given by mail, at the address listed on the most recent assessment roll for the Village of Menands, or personal service to the record owner of the subject premises at least five (5) days prior to the commencement of any proceeding to enforce any provision of this chapter; provided, however, that such notice shall not be required, where in the

judgment of the Code Enforcement Officer, or authorized deputy, that the alleged violation constitutes a threat to life, health or safety, in which case no such notice shall be required.

- (4) Taking emergency action. If in the opinion of the Code Enforcement Officer, or authorized deputy, a violation exists which requires immediate action to avoid a direct hazard or eminent danger to the health, safety or welfare of the occupants of a building or to other persons, the Code Enforcement Officer, or authorized deputy, may direct that such a violation immediately be remedied or may take such action on her or his own initiative to abate the hazard. Any costs incurred by such action shall be paid by the owner, occupant or person responsible for the violation. The Code Enforcement Officer, or authorized deputy, shall keep on file an affidavit stating with fairness and accuracy the items of expense, including actual time expended by town personnel on such enforcement, and date of execution of action taken.
- (5) Each and every day that a violation continues shall constitute a separate offense.
- (6) Each of the provisions of this chapter is hereby readopted without substantive change by Local Law, pursuant to the Municipal Home Rule Law of the State of New York. The provisions of this chapter, and the provisions establishing penalties for violating this chapter, shall supersede the provisions of the Village Law to the extent that they are inconsistent therewith.

D. Additional remedies.

- (1) In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, in violation of this chapter or any regulation made under authority conferred thereby, the Board of Trustees or any Village Officer designated by said Board, in addition to other remedies, may institute an appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such a violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. The Code Enforcement Officer shall serve notice by posting in a conspicuous location on the property that is the subject of the violation and either personally on the owner or by mail, at the address listed on the most recent assessment roll for the Village of Menands, on the person or corporation committing or permitting the same, and if such violation does not cease within such time as the Code Enforcement Officer may specify and a new certificate of occupancy is not obtained, he/she shall, with the authorization of the Board of Trustees, institute such of the foregoing actions as may be necessary to terminate the violation.
- (2) In addition to any other remedies set forth herein authorizing the Village to enforce the provisions of this chapter, establishing penalties, and setting forth additional remedies, the Village may seek a civil penalty not to exceed One Thousand and 00/100 (\$1,000.00) Dollars per day for each day of the violation. The Board of Trustees may also maintain an action of proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

§ 169-85 Fees

- A. The Village Board of Trustees shall, by resolution, establish and amend a Schedule of Fees for the applications and permits required or contemplated by this chapter, the current schedule shall be on file with the Code Enforcement Officer and with the Village Clerk. Such fees shall be payable to the Village Clerk at the time of application or, as appropriate, at the time of issuance of a permit.

§ 169-86 Compensation for Application Review Costs

- A. Intent and purpose.
- (1) Intent. The intent of this legislation is to make available to the Board of Trustees and the Zoning Board of Appeals expertise and professional resources in making final determinations on subjects requiring an expertise not usually possessed by volunteer boards of citizens, including, but not limited to, engineering, land use planning, architecture, law, surveying, environmental and ecological concerns.
 - (2) Purpose.
 - (a) The purpose of this legislation is to give the Board of Trustees and the Zoning Board of Appeals the resources to hire experts to help guide them through the various phases of review and approval of subdivisions, site plans, special use permits, variance and zoning amendments and the environmental review (SEQRA) process as the Boards may find reasonable and necessary to arrive at a decision on the developers' proposal(s).
 - (b) It is further the purpose of this legislation to shelter the residents of the Village of Menands from incurring any costs for expert or professional advice to its Board of Trustees and Zoning Board of Appeals from persons who have plans for developing lands in the village.
 - (c) Since the applicant will receive a benefit from the actions of the Board of Trustees and the Zoning Board of Appeals, every developer must pay the full cost of experts engaged by the Board of Trustees and the Zoning Board of Appeals which the members of such Board(s) believe to be reasonable and necessary to aid them in making decisions on technical matters.

§ 169-87 Building Permits

- A. No building in any district shall be erected, reconstructed, restored, or structurally altered, nor shall there be any physical disturbance and alterations of the site, including, but not limited to filling, cutting and excavations, and clearing of vegetation, without a building permit duly issued upon application to the Code Enforcement Officer, in accord with Chapter 71 of the Village Code.

- (1) Every application for a building permit shall be submitted on forms issued by the Code Enforcement Officer and shall contain the data and plans required and be accompanied by the fee established therefor by the Board of Trustees.
- (2) No building permit shall be issued for any building where the site development plan of such building is subject to approval by the Board of Trustees, except in conformity with the plans approved by said Board.
- (3) No building permit shall be issued for a building to be used for any conditional use in any district where such use is allowed only by approval of the Board of Trustees unless and until such approval has been duly granted by the Board.

§ 169-88 Certificate of Occupancy & Certificate of Compliance

- A. Certificate required for occupancy or use. No land shall be occupied or used and no building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of compliance shall have been issued by the Code Enforcement Officer stating that the premises or building complies with the provision of this chapter.
- B. Certificate required for change, extension, or alteration. No change or extension of use or alteration of a structure shall be made in the nonconforming use of premises without a certificate of compliance having first been issued by the Code Enforcement Officer stating that such change, extension, or alteration is in conformity with the provisions of this chapter.
- C. Application and issues, records, and fees. Certificates of compliance shall be applied for at the same time that the building permit is applied for and shall be issued within 10 days after the erection or alteration of the building shall have been accepted by the Code Enforcement Officer. A record of all certificates of compliance shall be kept on file in the Office of the Code Enforcement Officer, and copies shall be furnished upon request to any person having a propriety interest in the building affected. A fee shall be charged for each original certificate or copy thereof.

ARTICLE 16 ADULT-ORIENTED BUSINESSES

§ 169-89 Purpose and Intent

- A. The purpose of this section is to regulate without prohibiting, but also to prevent the proliferation of, adult-oriented businesses for purposes of minimizing harmful secondary effects associated with such uses, as opposed to regulating the content or expression associated with such uses. The Village Board finds that potential secondary effects which may arise as a result of the proliferation of adult-oriented businesses include reduction in property values, increase in crime, and alteration of community character and quality of life. Accordingly, this section is enacted to protect and preserve the quality and character of the Village's neighborhoods, and its commercial districts by, among other things, discouraging crime and maintaining property values. In formulating this

regulation, the Village Board has reviewed, considered, and found persuasive various secondary effect analyses prepared by similarly situated municipalities in this state, and the Village Board has considered the secondary effects on the Village of Menands itself and, the Village of Menands finds that:

- (1) There are adverse secondary impacts associated with the establishment and operation of adult-oriented businesses within a community;
- (2) Among these adverse secondary impacts are a deterioration in the local quality of life, an adverse effect upon local property values, and adverse effect upon local economic viability, an imposition, whether intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby, an increase in traffic, noise, litter and nuisance, criminal and illicit sexual behavior, a threat to the health and safety of children and young adults and an undermining of the established sense of community;
- (3) These adverse secondary impacts of the establishment and operation of adult-oriented businesses are a threat to the general health, safety and economic viability of the community;
- (4) The unregulated establishment and operation of adult-oriented businesses would lead to the widespread imposition of adverse secondary impacts upon residents, businesses, economic viability, property values, and quality of life of the Village and would therefore be detrimental to the general health, safety and economic viability of the community;
- (5) The United States Constitution, and the Constitution and laws of the State of New York grant to the Village of Menands the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of adult-oriented businesses, hereinafter defined, in order to protect the general health, safety and economic viability of the community.

B. Intent.

- (1) It is the express intent of the Village of Menands in adopting this section to:
 - (a) Ameliorate, mitigate, reduce or prevent the widespread and unregulated imposition of the adverse secondary impacts of adult-oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community;
 - (b) Protect the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

C. It is not the intent of the Village of Menands in adopting this section to:

- (1) Deny any person the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses; or

- (2) Impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Village under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression. These constitutionally protected rights are understood to include the right to sell, distribute and exhibit the legal goods and services offered by adult-oriented businesses; or
 - (3) Impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Village under the U.S. Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression; or
 - (4) Estimate, decide, determine, resolve, consider, conclude, judge, or qualify in any manner or fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.
- D. Aware that, according to numerous decisions by both federal courts and courts of the State of New York, the regulation of the location of adult businesses upon the community must be directed solely toward the mitigation of these impacts, not be directed toward any form of speech or expression, be no broader than necessary, and must provide alternative locations within the Village for adult use businesses, the Village of Menands hereby adopts this amendment to its Village zoning chapter.

§ 169-90 Requirements

- A. Location.
- (1) Adult uses may not be located in any zone except the HI (Heavy Industrial) Zoning Districts as more fully detailed on the official Zoning Map **21** of the Village of Menands.
 - (2) Adult uses are not principal uses permitted by right in the HI Zoning Districts but rather are uses permitted by special permit subject to the special permit standards contained within Chapter 169 of the Code of the Village of Menands.
 - (3) Adult uses may not be located, when initially opened as, or converted to, an adult use:
 - (a) Within 1,000 feet of the boundary of any residential zoning district or residence.

- (b) Within 1,000 feet of any property, including the exterior lot, used as a licensed day-care facility.
 - (c) Within 1,000 feet of any property, including the exterior lot, which has tax-exempt status as a religious or educational use.
 - (d) Within 1,000 feet of any other adult use.
- B. Public viewing and lighting.
 - (1) Lighting throughout an adult use establishment shall be sufficient to illuminate every place to which patrons are permitted access.
 - (2) Any and all booths, cubicles, studios, studies, and rooms for the private viewing of adult motion pictures and/or live performances or areas shall:
 - (a) Be open to public view from the common area of the establishment;
 - (b) Not have any doors, curtains, blinds or other structures or devices that shall impede observation of the entire area of such private viewing areas from the common area of the establishment;
 - (c) Be well-lighted and readily accessible at all times and shall continuously be open to view.
- C. Sale of alcohol prohibited. The sale and/or consumption of alcohol is prohibited within the designated adult use zone.
- D. Site plan review/landscaping.
 - (1) All adult use establishments shall be subject to all provisions of the building and zoning code of the Village of Menands.
 - (2) All adult use establishments when initially opened as, or converted to, an adult use establishment shall be subject to the site plan review process contained within **Article 10 (Site Plan)** of the Code of the Village of Menands and shall be subject to appropriate landscaping as determined in the site plan review process.

ARTICLE 17 AMENDMENTS

§ 169-91 Authority to Amend

- A. The Board of Trustees may, from time to time, amend, supplement or repeal, in whole or in part, this chapter, including the Zoning Map, in accord with the procedures set forth below. Such amendment shall be adopted by majority vote of the Board of Trustees, except as specified in **§§ 169-91.B** and **169-93**, and may be initiated in the following ways:
 - (1) By the Board of Trustees on its own motion.
 - (2) On the recommendation of the Zoning Board of Appeals.

- (3) By the filing of a petition by Village taxpayers or residents, on a form prescribed by the Village Clerk, describing such proposed amendment, accompanied by a fee in accord with a schedule established by the Board of Trustees.
- B. If a duly signed and acknowledged protest against a proposed amendment to this chapter is submitted to the Board of Trustees by any one of the following, it shall not become effective except by a favorable vote of 3/4 of the members of the Board.
 - (1) The owners of 20% or more of the area of the land included in such proposed change; or
 - (2) The owners of 20% or more of the land immediately adjacent to such proposed change, extending 100 feet therefrom; or
 - (3) The owners of 20% or more of the land directly opposite such proposed change, extending 100 feet from the street frontage of such opposite land.

§ 169-92 Procedures

- A. Public hearing. No change in the text or zoning district boundary of this chapter shall become effective until a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.
- B. Newspaper notice of hearing. At least 10 days prior to the date of each such public hearing, a notice of the time and place shall appear in the official newspaper of the Village. Such notice shall describe the area, boundaries, regulations, or requirements that such proposed change involves.
- C. Referrals. All proposed changes to this Zoning Law or Zoning Map shall be referred to the appropriate body as set forth in § 169-93.
- D. Publication and posting. Every amendment to this Zoning Law, including any map incorporated therein, adopted in accordance with Village Law shall be entered in the minutes of the Board of Trustees, and a copy or summaries thereof, exclusive of any map incorporated therein, shall be published once in a newspaper of general circulation in the Village. In addition, a copy of such Law or amendment, together with a copy of any map incorporated therein, shall be posted conspicuously at or near the office of the Village Clerk in accordance with Village Law. Affidavits of the publication and posting thereof shall be filed with the Village Clerk.
- E. Effective date. An amendment or change in this chapter shall take effect 10 days following publication and posting in accordance with **§ 160-92D** and filing of the local law with the Secretary of State in accord with Article 3 of the Municipal Home Rule Law.

§ 169-93 Referrals

- A. Referral to the County Planning Board.
 - (1) The Board of Trustees shall transmit a full statement of any proposed amendment that meets the referral requirements of **§§ 239-l, 239-m, and 239-n** of the General

Municipal Law to the Albany County Planning Board (ACPB) for its review. No action shall be taken by the Board of Trustees on such proposed amendment until a recommendation has been received from the ACPB or 30 calendar days have elapsed since the ACPB received such full statement or such longer time as may have been agreed upon by the ACPB and the Board of Trustees.

B. Board of Trustees action.

- (1) Pursuant to **§ 239-m** of the General Municipal Law, if the ACPB fails to report its recommendations within 30 days after receipt of a full statement of such referred material or such longer time as may have been agreed upon by it and the Board of Trustees, the Board of Trustees shall construe such inaction as approval of the proposed zoning action and may act without such a report. However, when such report is received two or more days prior to the final action, the Board of Trustees shall be subject to the requirements of **§ 169-93.B(2)(b)** below.
- (2) Effect of negative report. If the ACPB disapproves the proposed amendment or recommends modification thereof, the proposed amendment shall not become effective except by a vote of a majority plus one of all members of the Board of Trustees and after the adoption of a resolution fully setting forth the reasons for such action.

ARTICLE 18 EFFECTIVE DATE

This chapter shall take effect on _____, 2023. However, nothing herein contained shall require any change in the plans, construction, or designated use of a building for which a permit has been issued or which is under construction at the time of passage of this chapter and which entire building shall be completed within one year from the effective date of this chapter.

ARTICLE 19 DEFINITIONS**§169-94 Definitions**

- A. Except where specified in the following definitions, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "lot" includes the words "plot" or "parcel."
- B. Certain words or phrases are defined for the purpose of this chapter as follows:

A-E**ACCESSORY USE OR STRUCTURE**

A structure or use that:

- (1) Is subordinate to and serves a principal building or principal use.
- (2) Is subordinate in area, extent and purpose to the principal structure or principal use served.
- (3) Is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by provisions stated in this law.

ADULT-ORIENTED BUSINESSES

Includes adult bookstores, adult video stores, adult motion-picture theaters, adult mini-motion-picture theaters, adult cabarets, and adult drive-in theaters, which shall be defined as follows:

- (1) **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade adult paraphernalia, adult toys, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas as defined below.
- (2) **ADULT VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade adult paraphernalia, adult toys, video films, videocassettes or other films for sale or rental which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas as defined below.
- (3) **ADULT MOTION-PICTURE THEATER** — A building with a capacity of 50 persons or more used for presenting material distinguished or characterized by its emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas as defined below for the observation of patrons therein.
- (4) **ADULT MINI-MOTION-PICTURE THEATER** — An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by its emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

- (5) ADULT CABARET — An establishment which features live go-go dancers; exotic dancers; strippers, male or female; male or female impersonators or similar entertainers whose performances are characterized by partial or full nudity.
- (6) ADULT DRIVE-IN THEATER — A drive-in theater utilized for the presentation of materials distinguished or characterized by their emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

ADULT PHYSICAL CONTACT ESTABLISHMENT

Any establishment which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices, offices of persons licensed or authorized under the Education Law to practice massage therapy, offices of persons licensed or otherwise authorized by the Education Law as physical therapists or physical therapist assistants, and electrolysis, karate, judo, and dance studios are not to be considered adult physical contact establishments under this section.

ADULT USE BUSINESS — Any business which:

- (1) Is the use of land, structure, or location for an adult entertainment business or as an adult physical contact establishment as herein defined; or
- (2) Is any use of land, structure or location which, by the provisions of the Penal Law, is required to restrict the access thereto by minors; or
- (3) Is an establishment, location, building, or structure which features topless dancers, nude dancers or strippers, male or female; or
- (4) Is a location, building or structure used for presenting, lending, or selling adult paraphernalia, adult toys, motion-picture films, videocassettes, cable television or any other such visual media, or used for presenting, lending, or selling books, magazines, publications, photographs, or any other materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas as defined below.

SPECIFIED ANATOMICAL AREA — Includes:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;
- (2) Human male genitals in a discernible turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES — Includes:

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse, or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, including an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another, so as to be attached to a building and having a common wall with the building it is attached to.

AMENDMENT

A change in the text or the map of any portion of this chapter.

ANIMAL BOARDING

A facility designed for the care and socializing of animals for any amount of time by a person other than the animal owner. An animal boarding facility may also offer animal day care, as this term is defined in this Chapter. Animal boarding does not include facilities that provide breeding for animals or selling of animals. Animal boarding facilities shall not be operated as a Home Occupation as defined herein.

ANIMAL DAY CARE

A facility in which one or more animals are supervised and cared for on a short-term basis by a person other than the animal owner, and which may also include grooming and training, but which does not include overnight stays for animals. Animal day care facilities shall not be operated as a Home Occupation as defined herein.

ANIMAL SHELTER

A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

APARTMENT

A dwelling unit in a building for rent or lease for tenants, excluding mobile homes.

ARTICULATION

The elements in the massing of a building, which establish character and visual interest.

BAKERY

An establishment primarily engaged in the retail sale of baked products for consumption on or off-site. The products may be prepared either on or off-site. Such use may include incidental food service.

BAKERY, WHOLESALE

A bakery that is primarily involved in the production of baked goods for wholesaling purposes, and which may include on-site over-the-counter retail dispensing of baked goods.

BANK, FINANCIAL INSTITUTIONS

An establishment where the principal business is the receipt, disbursement, or exchange of funds and currencies, such as banks, savings and loans, credit unions, and automatic teller machines (ATMs); the institution may also provide related financial services to consumers including drive-through services.

BAR

An establishment where alcoholic beverages are sold to be consumed on the premises, and where any sale of food is secondary to the sale of alcoholic beverages. This definition includes but is not limited to a bar, grill, saloon, pub, public house, beer garden, brewpub, or similar establishment, but does not include a banquet facility.

BASEMENT

That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building. This definition includes the term "cellar."

BED & BREAKFAST

A residential lodging facility typically occupying a structure initially constructed as a single-family or two-family dwelling offering bedrooms without a kitchen, but may include kitchen privileges, and housing transient guests for periods not to exceed 14 consecutive days, serving breakfast.

BICYCLE LANE

A designated exclusive space for bicyclists using pavement markings, signage, and/or physical installations such as bollards. The bike lane is typically located adjacent to motor vehicle travel lanes and flows in the same direction as motor vehicle traffic

BILLBOARD

See "sign."

BLOCK

A tract of land within a subdivision bounded by streets, streams, railroads, the exterior boundaries of the subdivision, or any combination thereof.

BREWERY/DISTILLERY

A facility for the manufacturing of beers, wines, and other alcoholic beverages. A brewery or distillery may include a tasting room, restaurant and/or retail establishment, along with an area for the bulk storage and handling of ingredients, products, and related materials.

BUFFER

A strip of land covered with sufficient permanent planting to provide a continuous physical screen to mitigate the conflicts between two or more different land uses.

BUILD-TO-ZONE

A zone established within a certain distance from the property line to a delineated fronting zone along which the building must be built.

BUILDING

A structure wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals, or property.

BUILDING, ACCESSORY

A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

BUILDING, PRINCIPAL

A building in which the principal use of the lot on which it is located is conducted.

BULK

The combination of controls (lot size, floor area ratio, lot coverage, open space, yards, height, and setback) that determine the maximum size and placement of a building on a lot.

BUS RAPID TRANSIT (BRT)

A bus-based mass transit system that utilizes enhanced, high-quality design, services, and infrastructure to improve capacity and reliability relative to a conventional bus system.

BUSINESS & PROFESSIONAL OFFICE

An establishment used for the organization or administrative aspects of a trade or used in the conduct of a profession or business, and not involving the manufacture, storage, display, or direct retail sale of goods. This may include, but is not limited to, offices of sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers, consulting services, and persons with similar occupations; provided however, that offices used by physicians or other similar medical personnel for the treatment and examination of patients shall be conducted solely on an outpatient basis with no overnight patients kept on the premises. For the purposes of this Chapter, an "Urgent Care Facility" shall not be considered a Business & Professional Office.

CANNABIS RETAIL DISPENSARY

A retail facility for the sale of cannabis products, requiring a license pursuant to the New York State Marihuana Regulation and Taxation Act.

CAR WASH

A building, the use of which is devoted to the washing of and cleaning of the interior and exterior of motor vehicles.

CEMETERY

A burial place or ground operated and maintained by a religious organization, private entity, or a government agency, which may include a crematorium and aboveground burial vaults. A cemetery is a semipublic use.

ELECTRIC VEHICLE CHARGING STATION

Facilities for plug-in vehicles that offer power at a variety of levels including Level 1: A slow-charging station with power ranging from 0 to 120 volts; Level 2: A medium-charging station with power ranging between 120 and 240 volts; and Level 3: A fast or rapid-charging station with power greater than 240 volts.

CLUB, CIVIC, SOCIAL/FRATERNAL ORGANIZATION

Buildings, facilities, and property owned or operated by a corporation, nonprofit/not-for-profit, sportsman club, association, or person or persons, for a social, educational, or recreational purpose, including public or private hunting of wildlife/fishing, and related purposes, to which membership is required for participation and may or may not be primarily operated for profit.

COMMERCIAL USE

The term collectively defining workplace, office, retail, and lodging functions.

COMMUNICATIONS TOWER

A structure, including one or more antennas or the functional equivalent of such that is intended for transmitting and/or receiving a wireless signal, including, but not limited to radio, television, communications, and cellular towers. For the purposes of this Chapter, the term "Communications Tower" shall not include amateur radio operator's equipment licensed by the FCC or a private television antenna.

COMMUNITY AND GOVERNMENT USE

Any building, structure or premises or part thereof that is designed, constructed, or used for non-commercial community or governmental or municipal purposes, which may include, but not limited to a village hall, meeting hall, highway/department of public works garage, water and sewer facilities, library, post office, and police, rescue and/or fire stations that serve the public. For the purposes of this Chapter, Community and Government Uses shall not include public or private schools, religious uses, or club, civic, social/fraternal organizations, as these terms are defined in this Chapter.

COMMUNITY CHARACTER

The sense of place created by the built environment; natural features and open space; infrastructure; public facilities and services; and public realm.

COMMUNITY GARDEN

An area of land managed by an individual, a group of individuals, or the Village of Menands, growing and harvesting a mixture of food crops and/or non-food for noncommercial personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group.

COMMUNITY RESIDENTIAL CARE FACILITY FOR THE DISABLED

Pursuant to § 41.34 of the Mental Hygiene Law, a supportive living facility up to fourteen residents or a supervised living facility subject to licensure by the New York State Office of

Mental Health or the New York State Office for People with Developmental Disabilities which provides a residence for up to fourteen individuals with mental disabilities, including residential treatment facilities for children and youth, and which is integrated within the community, established similar to and shall be classified as a one-family dwelling residence with shared living area, kitchen and bathroom facilities. For the purposes of this chapter, similar facilities that are not subject to licensure by the Office of Mental Health or the Office for People with Developmental Disabilities shall not be considered a Community Residential Facility.

COMPLETE STREET

Streets which are designed and operated to prioritize safety, comfort, and access to destinations for all people.

CONDOMINIUM

A form of ownership less than the whole; the fee ownership of separate portions of buildings, which may be combined with unit owners having rights in common to use the common elements of the parcel in question, with separate ownership confined to individual units. The term "condominium" is defined in the Condominium Act contained in the Real Property Tax Law.

CONTIGUOUS PARCELS

Parcels sharing a property line which are not separated by streets or other parcels or rights-of-ways owned by others.

CONVENIENCE STORE

A retail establishment offering any of the following for sale: prepackaged food products, household items, newspapers and magazines, and prepared foods, generally for off-site consumption, but which may offer limited seating without wait service.

CORRIDOR

Linear system that forms the borders of, or connects, the neighborhoods and districts and is composed of natural and built components.

COVERAGE, LOT

The percentage of building coverage of a lot, which includes all principal buildings, roofed porches, carports, garages, and other accessory buildings.

CULTURAL VENUE

A building or space used for cultural education and experiences, including museums, art galleries, aquariums and related establishments that focus on cultural education and interpretation. See Performing Arts Center for all performance art uses.

CURB CUT

An angled cut in the edge of a curb that permits vehicular access from a street to a driveway, garage, parking lot, or loading dock.

DAY CARE CENTER – ADULT AND/OR CHILD

A place, other than an occupied residence, providing or designed to provide supervised care to three or more children or adults for more than three, but less than 24 hours per day by someone other than the parent, stepparent, guardian or relative within the third degree of consanguinity of the parents or stepparents of such child or adult.

DAY CARE HOME - ADULT AND/OR CHILD

A program caring for three or more children or adults in a residence that is not the child's or adult's residence for more than three, but less than 24 hours per day by someone other than the parent, stepparent, guardian, or relative within the third degree of consanguinity or stepparents of such child or adult.

DENSITY, RESIDENTIAL

The maximum number of dwelling units permitted on a zoning lot.

DISPOSITION

The placement or arrangement of a feature.

DRIVE-THROUGH ESTABLISHMENT

A service window in which customers of a facility can access goods or services from within a vehicle. A drive-through window, including, but not limited to restaurants including fast-food operations, banks, and pharmacies.

DRIVEWAY

A vehicular lane within a lot or shared between two or more lots providing access to a street, garage, parking area, or parking lot.

DWELLING UNIT

A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, MULTI-FAMILY

Any building used or designed as a residence for three or more households living independently of each other and doing their own cooking therein, including but not limited to apartments, certain condominium developments and the conversion of existing single-family dwellings.

DWELLING, SINGLE-FAMILY

A detached building designed for or occupied exclusively by one household and containing not more than one dwelling unit, erected on a permanent foundation, with/without basement and equipped for year-round occupancy.

DWELLING, TWO-FAMILY

A detached building where not more than two individual dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

DWELLING, TOWNHOUSE

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

EASEMENT

Deeded authorization by a property owner for the use or nonuse of any part of his property.

EGRESS

Means of exiting the interior of a structure or property.

ELECTRIC VEHICLE (EV)

Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board via a battery for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; and (2) a plug-in hybrid electric vehicle.

ENCROACHMENT

Any structure or structural element which intrudes into an easement, setback or dedicated right-of-way or property line.

F-J

FAÇADE

The exterior wall of a building that is set along a frontage line.

FAMILY

- A. One of the following:
- B. One, two or three persons occupying a dwelling unit; or
 - (1) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
 - (2) It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.
- C. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
 - (1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;
 - (2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;

- (3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;
- (4) The group is permanent and stable. Evidence of such permanency and stability may include:
 - a. The presence of minor dependent children regularly residing in the household who are enrolled in local schools.
 - b. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes;
 - c. Members of the household are employed in the area;
 - d. The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;
 - e. There is common ownership of furniture and appliances among the members of the household; and
 - f. The group is not transient or temporary in nature;
- (5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

FARM OPERATION

The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock, and livestock products as a commercial enterprise.

FARMERS' MARKET

A permanent, semipermanent, or temporary structure (or stalls or tents), operated on a seasonal or year-round basis, that allows for agricultural producers to sell their products and agriculture-related items directly to consumers.

FLOODPLAIN

An area prone to flooding.

FLOOR AREA OR GROSS FLOOR AREA

- (1) Residential: the area, in square feet, within the exterior walls of a dwelling unit, not including attached garages, porches, decks, etc.
- (2) Commercial or industrial: the total area, in square feet, within the exterior walls of a building or structure and, when applicable, the total of all floor areas of the principal and accessory buildings or structures under single ownership or business.

FOOD TRUCK

A motorized vehicle registered and able to be operated on the public streets, in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for sale or distribution.

FORM-BASED CODE

A regulation of land use and development with a focus on the character and physical form rather than the separation of uses as the organizing principle for the code. Form-based codes include five main elements: 1) a plan or map of the regulated area designating the locations where different building form standards apply; 2) specifies elements in the public realm, like sidewalks, travel lanes, on-street parking, street trees, and furniture; 3) building standards controlling the features, configurations, and functions of buildings; and 4) a clearly defined and streamlined application and project review process.

FRONTAGE, BUILDING

An area of a lot between a building facade and a right-of-way line of a public street or road. Frontage is divided into private frontage and public frontage.

FRONTAGE, LINE

A lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines.

FRONTAGE, PRINCIPAL

The primary frontage area of a building with a main entrance.

FRONTAGE, SECONDARY

The frontage that is not the primary frontage and that is associated with a side entrance.

FRONTAGE, STREET

The portion of a building site that has a common line with a street right-of-way line.

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles and within which space no business activity or industry connected directly or indirectly with motor vehicles is conducted.

GARAGE, PUBLIC

Any garage, other than a private garage, available to the public, operated for gain, and which is used for storage, rental, repair, painting, washing, servicing, or equipping motor vehicles.

GOLF COURSE, PUBLIC OR PRIVATE, OR DRIVING RANGE AND/OR COUNTRY CLUB

A public or private golf driving range and/or a track of land laid out with at least nine (9) holds for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restaurant, bar, tavern, pro-shop, restrooms, driving range, shelters, and other common accessory buildings, structures, and uses.

GRADING

The physical alteration of the contours of land in connection with a development project. Minor alteration for landscaping purposes or to improve drainage on individual residential properties does not constitute grading.

GRANDFATHERING

Exempting from a new law or regulation.

GREENHOUSE, COMMERCIAL

A building or structure, permanent or portable, which is used for the growth of flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products to be sold at wholesale or retail.

GREEN INFRASTRUCTURE

The multifunctional, interconnected network of open space and natural features such as greenways, wetlands, parks, forest preserves, and areas of native plant vegetation, that naturally manages stormwater, reduces flooding risk, and improves water quality.

GREEN ROOF

A vegetated roof design that is designed to absorb rainfall or snowmelt, typically to manage stormwater, mitigate the heat island effect, or offer recreational space for building occupants.

GROSS LEASABLE AREA (GLA)

The total finished floor area of all buildings in a planned shopping center, exclusive of service areas outside the stores, boiler rooms, freight tunnels or corridors, elevators, utility or rest rooms and truck docks.

HEIGHT

The vertical distance from the average ground level of the foundation of the building or structure to the highest point of the roof, unless otherwise specified herein. Chimneys, spires, towers, elevators, penthouses, tanks, HVAC, and similar projections shall be excluded from such calculation.

HIGHER EDUCATION

Any of various types of education given in postsecondary institutions of learning, especially by a college or university.

HOME OCCUPATION

An occupation carried on in a dwelling unit or accessory structure by the resident thereof; provided the use is limited in extent and incidental and secondary to the dwelling unit for residential purpose and does not alter the exterior residential character of the property thereof. For the purposes of this chapter, the following uses shall be considered Home Occupations:

HOME OCCUPATION 1

Includes all home occupations conducted and fully contained within a principal or accessory residential structure and does not attract onsite customers.

HOME OCCUPATION 2

Includes all home occupations which attracts onsite customers and/or is conducted outside of a principal or accessory residential structure.

HOTELS AND MOTELS

A building in which lodging is provided and offered to the public, which is customarily open to transient guests, and which may include ancillary facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities. A hotel/motel unit may contain a kitchen for extended stay lodgings. Outdoor athletic courts and other outdoor facilities are permitted and may be included with a hotel use.

HOUSEHOLD

All the people who occupy a housing unit.

IMPERVIOUS SURFACE

Areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

INDUSTRY AND MANUFACTURING FACILITIES, HEAVY

Uses engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials that potentially involve hazardous conditions with significant external effects, or which pose risks due to the involvement of explosives, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. Accessory warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use.

INDUSTRY & MANUFACTURING FACILITIES, LIGHT

A use that involves the manufacturing, production, processing, fabrication, assembly, treatment, repair, or packaging of finished products and materials, or from raw materials that do not need refining and are conducted wholly within an enclosed building. Accessory warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc.

INFILL DEVELOPMENT

The building and constructing of structures on vacant land within an already-developed community or area.

INFILL NEIGHBORHOOD

The development of additional housing units into an already-approved subdivision or neighborhood.

IN-LAW APARTMENT

A secondary dwelling unit established in conjunction with and subordinate to the principal dwelling unit on the same lot.

K-O

LAND DISTURBANCE

The disturbance of land, including but not limited to grading, cutting of vegetation, the excavation or removal of soils or minerals, associated with the present or future development of the parcel.

LAND USE

The design, arrangement and operations carried by humans for economic or cultural activities at a given place.

LIGHTWELL

A private-frontage type that is a below-grade entrance or recess designed to allow light into basements. See Table 4.[3]

LINER BUILDING

A building specifically designed to mask a parking lot or a parking structure from a frontage.

LIVE-WORK UNIT

An attached or detached structure with one dwelling unit above or behind a ground floor space that can be used for service or retail uses.

LOADING AREA

An off-street space at least 12 feet wide by 40 feet long, with an appropriate means of access to a street or alley, intended for the temporary parking of a vehicle while loading or unloading merchandise or materials.

LOT

Land occupied or which may be occupied by a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street.

LOT, CORNER

A lot situated at the intersection of two or more streets or highways.

LOT, DEPTH

The mean horizontal distance between the front and rear lot lines, measured along the median between the two side lot lines.

LOT FRONTAGE

Distance measured across width of the lot at the street line.

LOT LINE

The established division line between different parcels of property.

LOT LINE, FRONT

The lot line which abuts a street or highway right-of-way boundary.

LOT LINE, REAR

The lot line generally opposite to the street line and most distant from the front lot line. In the case of any odd-shaped lot or any corner lot, the rear lot line shall be determined by the Code Enforcement Officer.

LOT OF RECORD

Any lot which has been established as such by plot, survey, record, or deed prior to the effective date of this chapter.

LOT WIDTH

The mean horizontal distance of a lot, measured at right angles to its depth at the building line, which building line shall follow the minimum setback requirements of this chapter.

LOT SIZE

The total horizontal area contained within the lot line.

MANUFACTURED HOME

An structure conforming to the requirements of the Federal Department of Housing and Urban Development (HUD), National Manufactured Housing Construction and Safety Act of 1974, as amended, and transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected onsite, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by HUD and complies with the standards established by the National Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle. For the purposes of this chapter, a manufactured home that is affixed to a permanent foundation and conforms with the identical development specification and standards pursuant to this Chapter, including general aesthetic and architectural standards, applicable to conventional, site-built single-family dwellings in the residential district in which the manufactured home is to be placed, shall be deemed to be a conforming one-family dwelling.

MANUFACTURED HOME, INDIVIDUAL

A manufactured home located within a residential zoning district.

MASSING

The three-dimensional shape of a building(s) height, width, and depth.

MEDICAL FACILITY

An institution that is licensed by the New York State Department of Health providing health services, including, but not limited to medical or surgical care to inpatients and outpatients suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, including, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices. For the purposes of this Chapter, dental offices and "urgent care" facilities shall be considered medical centers.

MEDICAL FACILITY, LARGE SCALE

A medical facility as defined herein that has a footprint greater than 20,000 square feet, not including accessory buildings.

MEDICAL FACILITY, SMALL SCALE

A medical facility as defined herein that has a footprint equal to or less than 20,000 square feet, not including accessory buildings.

MIXED-USE

Two or more uses allowed in the applicable zoning district and located within the same building and/or on the same lot.

MOTOR VEHICLE REPAIR SHOP

An establishment that is used for the general repair, rebuilding, or reconditioning of engines, automobiles, motorcycles, trucks, trailers, or similar vehicles, including collision service, body repair and frame straightening, muffler repair, oil change and lubrication, tire service and sales, painting and upholstering, vehicle steam cleaning, undercoating, and similar services.

MOTOR VEHICLE FUEL SALES

An establishment intended to be used for the retail sale of automotive fuel and which may include electric vehicle charging services, but which use shall be separate and distinct from a "Motor Vehicle Repair Shop" and "Motor Vehicle Sales and Service."

MOTOR VEHICLE SALES AND SERVICE

An establishment including open areas and/or showrooms enclosed within a building used for the display or sale of new or used automobiles, trucks, cargo trailers, recreational vehicles, motorcycles, snowmobiles and/or boats, and which may include the repair of such vehicles.

MULTI-USE LANE

Infrastructure that supports multiple recreation and transportation opportunities, such as walking, bicycling, inline skating, and wheelchair use on a shared lane.

MUNICIPAL

Relating to a town, city or village or its governing body.

MUSEUM

A building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited.

NURSING HOME

A facility approved by the State of New York which is designed for frail elderly and chronically disabled residents. The facility shall provide 24-hour medical care, activities, supervision, and social services and may offer a wide-range of medical-based services, including rehabilitation, occupational and physical therapy, and services to residents with special needs, chronic or life-threatening.

OFF-STREET PARKING

The parking of motor vehicles in a designated area, whether public or private, and not upon a public street. Areas include, but are not limited to, ramps; garages; carports; or uncovered paved or unpaved surfaces.

OPEN SPACE

An unoccupied area open to the sky in a natural state, but including squares, plazas, and formal gardens. Also, the unoccupied area open to the sky in the same lot with a principal building and/or accessory building. Open area does not include paved parking areas or driveways.

OUTBUILDING

Separate structures used for a purpose incidental to the enjoyment of the dwelling, and may include, but is not limited to, structures such as sheds; greenhouses; garages; pool houses; or barns.

OUTDOOR CAFÉ

An open-air seating area on a public sidewalk provided by a restaurant located on the adjoining property, where restaurant patrons can eat or drink.

OUTDOOR SALES LOT

A lot located on the exterior of a building used, or proposed to be used, for the storage or display of goods, products, equipment, or machinery offered for sale or rental on the premises.

OUTDOOR STORAGE YARD

An area outside of an enclosed building where materials and goods, operable machinery and equipment, and operable vehicles are stored, but does not include retail sales, recycle center, scrap yard, lumber yard or an auto wrecking yard.

OUTPARCEL

An area at the property line located within a shopping center that shares a common parking lot with the other buildings and establishments within said shopping center, but which is separated from the principal building and establishment by at least 75 feet.

OVERLAY ZONE

A zoning district that encompasses one or more underlying zones and imposes additional or alternative requirements to those required by the underlying zone.

P-T

PARKING LOT, ACCESSORY-1

An area designated for the expansion of existing off-street parking of motor vehicles for residents, employees, visitors, and/or patrons of an existing principal use permitted by this Chapter and where no fee is charged to park. The parking lot shall be located on the same parcel occupied by the principal use. An Accessory Parking Lot – 1 shall not be used for the storage of unlicensed/ unregistered vehicles.

PARKING LOT, ACCESSORY-2

An area designated for the expansion of existing off-street parking of motor vehicles for residents, employees, visitors, and/or patrons of an existing principal use permitted by this Chapter and located on a parcel contiguous with the parcel occupied by the principal use. A Parking Lot, Accessory-2 shall not be used for the storage of unlicensed/unregistered vehicles.

PARKING LOT, COMMERCIAL

A parcel of land or portion thereof used for the parking or storage of motor vehicles as a commercial enterprise for which any fee is charged independently of any other use of the premises. A commercial parking lot shall not be used for the storage of unlicensed/unregistered vehicles.

PARKING LOT, PUBLIC

An area owned by the Village of Menands designated for off-street parking of motor vehicles available to the public, with or without payment. For the purposes of this Chapter, a public parking lot may be used as a "park & ride" without payment.

PARKING SPACE

Off-street parking space 10 feet wide by 20 feet long used for temporary location of one licensed motor vehicle. Such space shall have direct access to a street or alley.

PARKING STRUCTURE

Any building or structure principally used for the parking of motor vehicles.

PEDESTRIAN AMENITIES

Areas and objects that serve as places for public socializing and enjoyment and are usually closed to motorized vehicles. Examples include plazas; extra-wide sidewalks; street furnishings such as benches, drinking fountains, and bus waiting shelters; pocket parks adjacent to a street; and similar areas and objects.

PEDESTRIAN REALM

The space behind the curb of the street that provides physical space for pedestrian activity, buffering from the vehicular and bicycle traffic along the street, and space for shade and other elements that affect pedestrian comfort. The pedestrian realm includes hardscape, publicly accessible sidewalks, clear pedestrian spaces, softscape and utilities, and pedestrian amenities.

PERFORMING ARTS CENTER

A structure, or part of a building, or an open-air venue that may contain audience seating, or a combination thereof, and that includes one or more screens, stages, studios, or auditoriums, devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances as well as the recording of performances. Such establishments may include space for practice, rehearsal, as well as accessory services such as food and beverage sales and other concessions.

PERSONAL SERVICES

Barber, hairdresser, beauty parlor, shoe repair, shoeshine, health spa, laundry, laundromat, dry cleaner, music school, dancing school, driving school, photographic studio and businesses providing similar services of a personal nature.

PERVIOUS SURFACE

A surface that allows the percolation of water into the underlying soil. Pervious surfaces include grass, mulched groundcover, planted areas, vegetated roofs, permeable paving as well as porches and decks erected on pier foundations that maintain the covered lot surface's water permeability.

PERVIOUS PAVEMENT

Permeable paving surfaces are made of either a porous material that enables stormwater to flow through it or has nonporous blocks which are spaced so that water can flow between the gaps.

PLANNED DEVELOPMENT DISTRICT

A unique zoning district where greater flexibility from conventional zoning regulations is provided in a specified area that is to be developed as a single entity. The PDD must be in keeping with the Comprehensive Plan and be in conformance with a preliminary planned development plan approved by the municipality. Planned Development Districts allow diversification in the uses permitted and variation in the relationship of uses, structures, and

open spaces and are conceived as cohesive unified projects with unique standards and regulation.

PRELIMINARY REVIEW

The administrative process by which a development project, which is otherwise permitted by right in the zoning district, is reviewed by the municipality to ensure conformance with applicable policies, codes, and standards.

PRINCIPAL BUILDING

The main building on a lot, usually located toward the frontage.

PRINCIPAL ENTRANCE

The main point of access for pedestrians into a building.

PRINCIPAL FRONTAGE

On corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot. See "Frontage."

PROFESSIONAL SERVICES

Services provided by an individual engaged in an occupation providing such, including but not limited to that of physician, dentist, lawyer, engineer, accountant, architect, teacher, psychologist, insurance agent or broker, realtor, marketing, advertising and consultant or any other similar occupation as determined by the Board of Trustees.

PUBLIC SPACE

Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

PUBLIC FACILITIES, MAJOR

Any public service improvement or structure developed by or for a public agency or a public utility that is not defined as a minor public facility, including but not limited to sewer and water treatment plants, water reservoirs, trunk lines, and regional stormwater detention facilities. For the purposes of this Chapter, Major Public Facilities shall not include establishments engaged in the generation of electricity, gas, or steam.

PUBLIC FACILITIES, MINOR

Utility structures (e.g., poles, lines, pipes); sewer, water, and storm drainage structures and collection system improvements (e.g., water towers, pump stations, lines, manholes, valves, hydrants, drains, on-site detention facilities); new or extended public streets (including lane additions); minor improvements to existing streets (e.g., overlays, catch basins, signs, control devices, widening, curbs, gutters, sidewalks); and minor transit improvements (e.g., bus stops or shelters). For the purposes of this Chapter, Minor Public Facilities shall not include establishments engaged in the generation of electricity, gas, or steam.

PUBLIC PARKS AND PLAYGROUNDS

A publicly-owned area used for active or passive recreational pursuits, including, but not limited to parks, play lots, playgrounds, tennis courts, and athletic fields for non-commercial neighborhood or community use.

RADIO AND TELEVISION STATIONS

An establishment containing one or more broadcasting studios for over-the-air, cable, or satellite delivery of radio or television programs. The term does not include communications towers.

RAIN GARDEN

A stormwater retention and water quality facility consisting of a shallow depression in the ground with a layer of soil and vegetation that reduces the flow or rate of flow of stormwater from a property into the municipal stormwater system, and removes sediment and pollutants from that stormwater.

RECREATIONAL FACILITY, COMMERCIAL

An indoor or outdoor area or facilities designed and equipped for the conduct of sports and leisure-time activities, and which access to or use of such indoor or outdoor areas or facilities is subject to a fee. Recreational facilities may include, but are not limited to playgrounds, swimming pools, ice rinks, tennis courts, waterparks, driving ranges, basketball courts, handball and racquet courts, soccer, baseball, softball, polo, and football fields, running tracks, and riding rinks. Such uses may be accompanied by customary accessory uses, which may include food service facilities, meeting rooms, serving alcoholic beverages, video or computer game facilities, video theater facilities, sales of sport or exercise-related equipment or clothing and other customary accessory uses.

RELIGIOUS USE

Church, mosque, religious temple, parish house, convent, seminary, and retreat house. For the purposes of this chapter, a "Religious Use" shall also be known as a "Place of Worship."

RESEARCH AND DEVELOPMENT FACILITY

A use engaged in research and development, testing, assembly, repair, and manufacturing, including, but not limited to the following: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Accessory offices, warehousing, wholesaling, and distribution of the finished products produced at the site area are allowed as part of this use.

RESIDENTIAL DISTRICT

All zoning districts identified in Article 2 (Residential Districts) of this Chapter.

RESTAURANT

Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption either on or off premises.

RETAIL AND/OR SERVICE ESTABLISHMENT

A commercial establishment, not separately defined in this chapter, which provides goods and/or services directly to the customer, where such goods are available for immediate purchase and removal from the premises by the purchaser, and which may include small-scale light manufacturing and assembly of products on-site. In the case of a service establishment, the services provided by the business can take place off-site.

RIGHT OF WAY

The right to pass over or through real property owned by someone else, usually based upon an easement. In traffic law, right of way refers to a preference of one of two vehicles, or between a motor vehicle and a pedestrian, asserting the right of passage at the same place and time.

SCHOOL GROUNDS

Means any building, structure, and surrounding outdoor grounds, including entrances or exits, contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office.

SCHOOL, PRIVATE

Unless separately defined in this Chapter, a private school shall be an institution, not owned by a public agency, which offers to its students, formal education, and is charter by the Board of Regents of the University of the State of New York.

SCHOOL, PUBLIC

Unless separately defined in this Chapter, a public school shall be an institution under the jurisdiction of a school district or other public agency and legally constituted by the State of New York for the teaching of children or adults including primary and secondary schools, colleges and universities, professional, trade, vocational, and job-training schools and similar facilities, licensed by the New York State Department of Education.

SCREENING

The covering or shielding of an area from public view, often achieved with plantings, shrubbery, or art installations.

SETBACK

The required minimum depth a building or structure must be from a street or road, adjacent property, stream, shore, or flood plain, or any other place deemed in need of protection.

SELF-STORAGE FACILITY

A building or group of buildings designed to contain multiple storage compartments for use by individuals on a short-term or long-term basis for a fee.

SHARED MOBILITY

Transportation services that are shared among users, including public transit, taxis and limos, bike sharing, carsharing, ridesharing (car-pooling, van-pooling), ride sourcing, scooter sharing, and shuttle services.

SHARED ROADWAY

A travel lane shared between bicyclists and motor vehicles.

SHOPPING CENTER

A site containing three or more commercial establishments exceeding a combined total of 60,000 square feet in area, that is planned, owned, and managed as a single property, with off-street parking.

SIGN

Any identification, description, illustration or device, illuminated or nonilluminated, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any logo, painting, banner, pennant, placard or temporary sign designated to advertise, identify or convey information, with the exception of window displays and national flags. "Signs" shall also include all sign structures. See **Chapter 138, Signs and Billboards**.

SITE PLAN

A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

SITE PLAN REVIEW

The assessment of the design and function of a proposed site, whereby a committee or agency identifies necessary referrals to other public agencies, and often includes project recommendations and/or requirements.

SKETCH PLAN

A map of a proposed subdivision, drawn and submitted in accordance with the requirements of adopted regulations, to evaluate feasibility and design characteristics at an early state in the planning.

SOLAR ENERGY SYSTEMS

The components and systems required to convert solar energy into electric energy suitable for the use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows:

TIER 1 SOLAR ENERGY SYSTEMS. Include the following:

- Roof-Mounted Solar Energy System

- Building-Integrated Solar Energy System
- Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC.
- All associated accessory structures including battery storage systems used exclusively to store electricity generated by the solar energy system

TIER 2 SOLAR ENERGY SYSTEMS. Include Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months. For the purposes of this Chapter, a Tier 3 solar energy system includes all accessory structures including battery storage systems used exclusively to store electricity generated by the solar energy system.

TIER 3 SOLAR ENERGY SYSTEMS. Include Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC, and which is designed and built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers or co-owners for use off the site. For the purposes of this Chapter, a Tier 3 solar energy system includes all accessory structures including battery storage systems used exclusively to store electricity generated by the solar energy system.

TIER 4 SOLAR ENERGY SYSTEMS. Shall mean Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

SPECIAL DISTRICT

Special subcategory of conventional zoning districts (residential, commercial, or industrial) that are intended to achieve specific planning and design objectives due to unique characteristics of an area.

SPECIAL USE PERMIT

Authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.

STORM DRAINAGE

System by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention, and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER

Water that originates from rain, including snow and ice melt.

STORMWATER MANAGEMENT

The process of improving water quality and controlling the stormwater runoff, which primarily comes from impervious surfaces such as parking lots, roofs, and driveways.

STORMWATER RUNOFF

The flow of water occurring on the ground surface when excess rainwater, stormwater, meltwater, or other sources, can no longer sufficiently rapidly infiltrate in the soil.

STORY

The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when the finished floor immediately above is seven feet or more above the average elevation of the finished grade. A cellar shall not be deemed to be a story. An attic shall be deemed to be a 1/2 story.

STREET

A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, cul-de-sac, place or however otherwise designated, and includes the entire area within the right-of-way.

STREET, ARTERIAL

Those used or destined to be used primarily for fast or heavy through traffic, whether existing or proposed.

STREET, COLLECTOR

Those which carry traffic from local streets to the major system of arterial streets and highways. Collectors may also serve as secondary arteries to carry some through traffic. A street which is the outlet toward an arterial street for more than 100 acres or is a main entrance to a residential development shall be considered a collector street.

STREET, LOCAL

Streets that are used primarily for access to the abutting properties.

STREETSCAPE

All elements that constitute the physical makeup of a street and that, as a group, define its character, including building frontage, street paving, street furniture, landscaping, including trees and other plantings, awnings and marquees, signs, and lighting.

STREET LINE

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

STREET WALL

The wall of a building or structure generally parallel and/or closest to the street line.

STRUCTURE

An assembly of materials forming a construction framed of component structural parts for occupancy or use, including buildings, garages, and swimming pools.

SUBDIVISION, MAJOR

The division of any parcel of land into four or more lots, plots, sites, or other division of land for immediate or future sale or for building development, whether the subdividing creates a street. The term "subdivision" is used to denote the act of subdividing or the property which is subdivided.

SUBDIVISION, MINOR

The division of any parcel of land into three or less lots, plots, sites, or other division of land for immediate or future sale or for building development, whether the subdividing creates a street.

SUBSTANTIAL RENOVATION

A renovation in which the total cost exceeds one-half of the assessed value of the structure.

SUPERMARKET

A retail facility established to accommodate the food shopping needs of the surrounding neighborhood and providing basic commodities such as fresh food, groceries, packaged food, produce, along with prepared food for takeout and other household goods.

SWIMMING POOL

Any artificial pool or structure intended for bathing or swimming purposes, made of concrete, masonry, metal, fiberglass, plastic, or other impervious material, over 15 inches in depth.

TEMPORARY USE

A use which is to last for a limited time; as, a temporary statute, or one which is limited in its operation for a particular period after its enactment.

TEMPORARY/SEASONAL SALES

The temporary sale of goods or products associated with the season or a cultural event, such as the sale of Christmas trees, pumpkins, or seasonal produce. Such sales typically take place in locations not devoted to such sales for the remainder of the year.

TOPOGRAPHY

The surface configuration of a place or region, including elevations and positions of the physical features.

TRANSITIONAL SERVICE FACILITY

An authorized or licensed residence providing housing and operated or funded by a public or private agency duly authorized and licensed by the New York State Office of Children and Family Services, State Department of Mental Hygiene, State Department of Health, or other state or county agency having authority to license and approve said facility, which houses individuals being cared for or whose housing or other living expenses are being paid for by the agency and deemed by the agency to be capable of living and functioning in the community and which provides professional guidance to such individuals while living in the facility. For the purposes of this Chapter, Transitional Service Facility shall not include a Community Residential Facility for the Disabled or a Medical Facility.

TRANSIT-ORIENTED DEVELOPMENT (TOD)

The development of residential, commercial and employment centers within one-half mile or walking distance of public transportation facilities, including rail and bus rapid transit and services, that meets transit supportive standards for land uses, built environment densities, and walkable environments, and facilitates and encourages the use of those services.

TRANSIT FACILITY

A building, facility or area located outside of the public right-of-way designed for and used by persons using or changing transportation modes or transit routes, or for the storage or parking of transit vehicles, generally for periods of no more than 24 hours.

TRANSMISSION TOWER

A concrete, metal, or timber structure used to support an overhead power line.

TRANSPORTATION FACILITY

Any road, bridge, tunnel, overpass, ferry, airport, mass transit facility, vehicle parking facility, port facility, sidewalk, bicycle facility or similar facility used for the transportation of persons or goods, together with any buildings, structures, parking areas, appurtenances, and other property needed to operate such facility.

TRUCK DRIVING SCHOOL

Any facility, public or private, where students are provided training on how to operate, load, maneuver, couple or maintain any truck, truck tractor, truck trailer, or multiple axle vehicle.

TRUCK STOP

An establishment engaged primarily in the fueling, servicing, repair, and temporary parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may include overnight accommodations, showers, or restaurant facilities primarily for the use of truck drivers and crew.

U-Z

USE, ACCESSORY

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

USE, NONCONFORMING

Any established use of land, building or structure lawfully existing prior to and at the effective date of this chapter or amendment thereto that does not conform with the permitted use provisions of this chapter as they apply to the district in which such land, building or structure is located.

USE, PRINCIPAL

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

UTILITY

A business or service, which may be publicly or privately owned, engaged in supplying the public generally with some commodity or service, such as electricity, gas, water, transportation, or telephone service.

UTILITY SUBSTATION

A subsidiary power station which provides a junction between components of a power grids distribution and transmission system, and where the electrical voltage fluctuations are regulated.

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.

VEHICLE, NONCOMMERCIAL

A vehicle designed primarily for the transport of persons and their personal goods, such as a passenger car, pickup truck, four-wheel drive vehicle, pickup camper, noncommercial van, and other similar vehicles, but shall not include tractor-trailers, delivery trucks and vans or any other commercial vehicles.

VETERINARY FACILITY

A facility where animals or pets are given medical or surgical treatment. Animal Boarding may be permitted as an accessory use within zoning districts where Animal Boarding is an allowed use.

WAREHOUSING

A use engaged in the long-term storage of manufactured products, supplies, equipment, records, and other items in a warehouse, excluding the bulk storage of flammable or explosive materials and the storage or construction and demolition debris, garage, rubbish, junk vehicles, and other debris. Warehousing uses may include the wholesale and distribution of stored products.

WAREHOUSE

A structure or structures, in which materials, goods, or equipment are stored in a fully enclosed space. For the purposes of this chapter, self-storage facilities shall not be considered a warehouse.

WETLAND

Areas where water covers the soil, or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season

WHOLESALE BUSINESS

Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial institutions or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for or selling merchandise to, such individuals or companies. Such use shall exclude the wholesale of materials that are flammable or explosive or that present hazardous conditions.

WHOLESALE BUSINESS, LARGE-SCALE

A wholesale business as defined herein that has a total footprint exceeding 50,000 square feet, including accessory structures.

WHOLESALE BUSINESS, SMALL-SCALE

A wholesale business as defined herein that has a total footprint of 50,000 square feet or less, including accessory structures.

WORKFORCE HOUSING

Affordable housing for households with earned income that is insufficient to secure quality housing in reasonable proximity to the workplace.

YARD

A space unoccupied by structures on the same lot with a building or structure.

YARD, FRONT

A yard situated between the street line and a line drawn parallel thereto at a distance equal to the required minimum distance (setback), as specified in the Dimensional Tables.

YARD, REAR

A yard situated between the rear lot line and a line drawn parallel thereto at the required minimum distance, as specified in the Dimensional Tables.

YARD, SIDE

A yard situated between any lot line other than a street line or rear lot line and a line drawn parallel thereto at the required minimum distance, as specified in the Dimensional Tables.

ZONING DISTRICT

A delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.