DRAFT

Chapter 156, Zoning

Town of Carmel

DRAFT TO THE TOWN BOARD FOR REVIEW AND COMMENT

June 2022

Table of Contents

Contents

Attachments

Article I General Provisions

§ 156-1 Enactment; purposes.

A. There is hereby established a comprehensive set of land use regulations for the Town of Carmel, in the County of Putnam, hereinafter referred to as the "Town," which plan is set forth in the text, Zoning Map and Schedule of District Regulations that constitute this chapter.

B. Said plan is adopted for the protection and promotion of the public health, safety and welfare as follows:

(1) To lessen congestion in the streets.

(2) To secure safety from fire, flood, panic and other dangers.

(3) To promote health and the general welfare.

(4) To provide adequate light, air and open space.

(5) To prevent the overcrowding of land or buildings.

(6) To avoid undue concentration of population.

(7) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

(8) To promote conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.

(9) To promote the conservation of nonrenewable energy sources.

(10) To revitalize and improve the visual appearance of the Town including the historic hamlet areas including but not limited to Mahopac, Mahopac Falls, and Carmel.

(11) To enhance and improve the visual, scenic and architectural appearance of the Town, including the main transportation corridors in the Town of Carmel, including but not limited to Route 6 and Route 52.

(12) To allow uses and development consistent with the Vision, goals and objectives and recommendations in the adopted Town of Carmel Comprehensive Plan, as may be amended

from time to time.

C. Such regulations were made with reasonable consideration, among other things, to the character of each district and its peculiar suitability to particular uses and with a view of conserving the value of property and encouraging the most appropriate use of land throughout the Town.

§ 156-2 Title.

This chapter shall be known as the "Town of Carmel Zoning Local Law."

§ 156-3 Districts enumerated.

A. Zoning Districts. The Town of Carmel is hereby divided into the following zoning districts shown on the Zoning Map and as listed below:

Designation	Name
C	Conservation
OSR	Open Space Residential (3 Acre Minimum Lot)
NR	Neighborhood Residential (1 Acre Minimum Lot)
SMR	Senior/Multifamily Residential
HR	Hospital/Residential
MHP	Manufactured Home Park
HMC	Hamlet Mixed Use Center
NB	Neighborhood Business
CB	Corridor Business
TC	Town Commercial
PRD	Planned Recreation Destination
BP	Business Park
PMUD-O	Planned Mixed Use Development Overlay
D-O	Design Overlay
ED	Economic Development Floating Zone

B. Zoning district purposes.

(1) Conservation (C). This district encompasses the New York City Department of Environmental Protection watershed lands, lands conserved as part of the New York City Memorandum of Agreement, major town lakes, publicly-owned passive and active recreational facilities and lands, and the Putnam Trailway.

(2) Open Space Residential (OSR). This zoning district is intended to allow primarily low density single-family residential uses and supporting community facilities and services. It will also allow limited nonresidential uses that are consistent with the Town's rural character including agricultural-related uses, and would cater to tourists as well as residents of the Town.

(3) Neighborhood Residential (NR). This medium density zoning district is intended to allow primarily medium density single-family residential uses, with options to allow two-family and multifamily dwellings in appropriate locations. It encompasses the older lake communities, small lot residential subdivisions, and neighborhoods on the periphery of the hamlet centers.

(4) Senior/Multifamily Residential (SMR). This zoning district encompasses a variety of multifamily dwelling developments, including townhomes, including both non-age and age-restricted senior residential neighborhoods in the Town.

(5) Hospital Residential (HR). This zoning district encompasses multifamily residential communities surrounding the hospital, and also incorporates various nonresidential uses that complement and are consistent with the hospital use.

(6) Manufactured Housing Park (MHP). This zoning district encompasses locations where manufactured housing is permitted.

(7) Hamlet Mixed Use Center (HMC). This zoning district encompasses the historic hamlet areas and will allow a range of residential and commercial uses to create vibrant walkable destinations within the community.

(8) Neighborhood Business (NB). This zoning district is located along the Town's major transportation arterials and is intended to allow a small range of commercial uses that primarily meet the local commercial needs of residents in the nearby residential neighborhoods.

(9) Corridor Business (CB). This zoning district encompasses parcels along Route 6, Route 6N and Route 52 which can accommodate general commercial uses which, due to their operational characteristics and auto-oriented design, cannot be accommodated within other nonresidential zones.

(10) Town Commercial (TC). This zoning district encompasses areas along Route 6 and Route 52 which can accommodate general commercial uses which serve Townwide commercial needs, including major design shopping centers.

(11) Planned Recreation Destination (PRD). This zoning district is intended to allow a variety of agricultural, entertainment, recreational, cultural and social activities within the community. Where these uses are developed, it also allows limited residential and commercial development as part of the planned center.

(12) Business Park (BP). This zoning district encompasses areas of the Town which allow a variety of nonresidential uses, including light industry, distribution, and warehousing type uses.

(13) Planned Mixed Use Development Overlay (PMUD-O). This overlay zoning district regulates parcels in proximity to the Carmel hamlet which are eligible to be developed in accordance with the Planned Mixed Use Development (PMUD) special use permit standards.

(14) Design Overlay (D-O). This overlay zoning district regulates portions of the hamlets, corridors and neighborhoods where alterations and additions to buildings will be reviewed to ensure the designs are consistent with any architectural and/or design guidelines established for the zone.

(15) Economic Development Floating Zone (ED). This is floating zone allows an Applicant to petition the Town Board for a zone change to allow development which will strengthen the Town's property tax ratable base and provides employment opportunities. The Town Board, in its discretion, may adopt the zone change where it finds the proposed development meets the objectives of the zone.

§ 156-4 Determination of district boundaries.

In determining the boundaries of districts shown on the Zoning Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following streets, rights-of-way or watercourses, the center lines thereof shall be construed to be the district boundaries.

B. Where district boundaries are indicated as approximately following the edge of lakes, ponds, reservoirs or other bodies of water, the mean high-water lines thereof shall be construed to be the district boundaries.

C. Where district boundaries are indicated as approximately following the lot lines of private parcels, parks or other publicly owned lands, such lot lines shall be construed to be the district boundaries.

D. In all cases where a lot in one ownership of record is divided by one or more district boundary lines, regulations for the less restricted portion or portions of such lot shall not extend into the more restricted portion or portions.

E. In all cases where a district boundary line is located not farther than 25 feet away from a lot line

of record, such boundary line shall be construed to coincide with such lot line.

F. In all other cases where dimensions are not shown on the map, the location of district boundary lines shown on the map shall be determined by the use of the scale appearing thereon.

G. In cases of uncertainty or disagreement as to the true location of any district boundary line, the determination thereof shall lie with the Zoning Board of Appeals as hereinafter provided.

§ 156-5 Official Zoning Map.

The location and boundaries of the districts enumerated in § **156-3** of this chapter are hereby established as shown on the Official Zoning Map of the Town of Carmel, dated June 2022, which is attached hereto and made a part of this chapter, together with all notations, references and designations shown thereon.

A. Authentication. Subsequent to the adoption of Local Law creating this Zoning chapter, the original paper copy of the Official Zoning Map shall be authenticated by the seal of the municipality, signed by the Town Clerk, under the following certificate: "I certify that this is the Official Zoning Map of the Town of Carmel, New York, referred to in Chapter **156** of the Town Code of the Town of Carmel, New York."

B. Maintenance. The Official Zoning Map shall be maintained in the office of the Town Clerk and shall be made available for public reference. All local laws amending the Official Zoning Map shall be referenced on the map. Copies of the Official Zoning Map shall be reproduced for public distribution with the complete Zoning chapter. However, the original Official Zoning Map kept in the office of the Town Clerk shall be used as the final authority as to the current status of zoning districts in the Town of Carmel. Electronic copies of the map may be made available which shall not be official copies of the Official Zoning Map unless showing the authentication set forth in subsection A above.

C. Changes.

(1) When, in accordance with the provisions of this chapter and of the state law, changes are made in district boundaries or other matters portrayed in the Official Zoning Map, such changes will not become effective until the Official Zoning Map has been amended.

(2) In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Board may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may contain corrected drafting or other errors or omissions

in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Zoning Map or any amendment thereof.

(3) Unless the prior Zoning Map has been lost or destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

§ 156-6 General regulations.

A. Following the effective date of this Zoning chapter, no building shall be erected, moved, altered, rebuilt or enlarged, except as specified elsewhere in this chapter, nor shall any land or building 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.

B. In interpreting and applying the regulations set forth in this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare as per § 261 of the New York State Town Law. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than is imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements or covenants or agreements, the provisions of this Zoning chapter shall prevail.

C. Approved plans and permits; grandfathering.

(1) Upon the effective date of this Zoning chapter, nothing herein shall require any change in the plans, construction or designated use of a building or use of land shown on any of the following:

(a) Subdivision plats for which:

[1] Preliminary approval has been granted by the Planning Board prior to the effective date of this Zoning chapter and final subdivision approval shall be obtained within two (2) years of the effective date of this chapter.

[2] Final approval which has been granted and the map is signed by the Planning Board within the time allotted in the approval resolution or any extensions thereof and the map is filed with the Putnam County Clerk within the time allotted under New York State law.

[3] The final map has been filed with the Putnam County Clerk prior to the effective date of this subsection. Building permits issued for said lots shall be issued using the lot dimensions, yard dimensions, height of buildings, floor area of buildings, coverage of lot by building, floor area ratio, off-street parking and loading requirements as well as all other regulations in effect as of the date of signing by the Planning Board of the Town of Carmel except if, on the date of signing by the Planning Board, no Zoning chapter of the Town of Carmel existed. In that case the standards of the first Zoning chapter of the Town of Carmel shall be applied except to the extent that those standards may have been superseded as a result of merger under a later Zoning chapter in which case the standards of the Zoning chapter in effect at the time of merger shall apply.

(b) Site plans which have been approved by the Planning Board and a building permit issued prior to the effective date of this chapter and actual construction begun within one (1) year of the issuance of such permit.

(c) Site plans approved by the Planning Board prior to the effective date of this chapter and found to be conforming to the applicable regulations of the Zoning chapter then in effect, and a building permit shall be obtained and actual construction begun within one (1) year of the date of site plan approval.

(d) Any site plan or subdivision which was approved by the Planning Board subsequent to the effective date of this chapter, and which approval shall have expired shall come within the purview of this section, provided that such approval is extended in accordance with the applicable provisions of this Zoning chapter or the Subdivision chapter, whichever the case may be.

(2) "Actual construction" is hereby defined to include the installation of construction and building materials in a permanent manner, e.g., a foundation. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on continuously and shall not have ceased for a period longer than thirty (30) days.

(3) Nothing contained herein shall exempt an applicant whose application is pending before the Planning Board prior to the effective date of this chapter from any other provisions of the Zoning chapter or Subdivision chapter of the Town of Carmel, effective on the date of the obtaining of final approval.

D. Prohibited uses. Any use not allowed by this Zoning chapter as a permitted use, special use, or accessory use, shall be deemed to be prohibited. If a use is specifically listed in the Schedule of District Regulations, it is excluded from a generic classification. Any list of prohibited uses contained in any section of this Zoning chapter shall not be deemed to be an exhaustive list but has been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses that are deemed undesirable and incompatible and are thus prohibited. Where permitted or uses allowed by special use permit are identified by generic words or descriptions, the Building Inspector shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Building Inspector shall consider to what extent the proposed use is similar to the class of use indicated in the District Schedule of Use Regulations.

§ 156-7 Word usage.

A. All words used in the present tense include the future tense, all words in the plural number include the singular number and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise.

B. Unless otherwise specified, all distances shall be measured horizontally.

C. The word "Town" means the Town of Carmel, the term "Town Board" means the Councilpersons and Supervisor of said Town; the term "Board of Appeals" means the Zoning Board of Appeals of said Town; the term "Planning Board" means the Town Planning Board of said Town.

D. The term "Comprehensive Plan" means the Comprehensive Plan adopted by the Town Board pursuant to § 272-a of the Town Law as may be amended from time to time.

E. The word "shall" is mandatory and not discretionary.

§ 156-8 Definitions.

For the purposes of this chapter, certain words and terms used herein are defined as follows:

ACCESSORY USE OR STRUCTURE/ CUSTOMARILY INCIDENTIAL ACCESSORY USE OR STRUCTURE

A use or structure that is subordinate to the principal use on the same lot and serving a purpose typically incidental and well established to the principal use. In order for a use or structure to be deemed an accessory use/customary incidental accessory use or accessory structure, it must be:

(1) subordinate to the principal use on the same lot;
(2) serving a purpose that is typically incidental and well established to the principal use; and
(3) unity of ownership between the principal and accessory uses. In no case shall such accessory

use dominate in land area, water area, extent, surface area, gross floor area or purpose to the principal use but be minor in its association with the principal/primary use.

Examples of customary residential accessory uses and structures are decks, satellite dish antennas, outdoor fireplaces, patios, garages, carports, domestic gardens, and sheds. Examples of customary commercial accessory uses and structures include parking, loading docks and areas, and signs. Accessory parking only is permitted to exceed in size, the size of the principal use, and be deemed accessory.

ACCESSORY DWELLING UNIT (ACCESSORY APARTMENT)

A dwelling unit as defined in this chapter, which is subordinate to and located within an existing single-family dwelling or existing accessory building.

AGRICULTURAL OPERATIONS

A parcel of land used for the purposes of producing agricultural or horticultural products, including nursery stock and livestock customarily kept on a farm, but not including the breeding, raising or maintaining of fur-bearing animals, animal kennels and riding academies. A noncommercial garden or greenhouse accessory to a principal use shall not be deemed an "agricultural operation".

AGRITOURISM USE

Activities conducted in association with an agricultural use and offered to the public, including the sale of agricultural products, education, recreation or active involvement in the farm operation. An agritourism activity is secondary to the principal agriculture use. Agritourism activities may be conducted in an accessory building. Agritourism activities include, but are not limited to, "u-pick" operations.

ALTER

To change, enlarge or rearrange the structure or parts of the existing facilities of a structure or to move a building from one location or position to another.

ANTIQUE SHOP

A retail use involving the sale or trading of articles of which 80% or more are over 50 years old or have collectible value.

APPLICANT

A property owner, or a person authorized by the property owner to make an application, seeking a determination or decision from the Building Inspector, Town Engineer, Planning Board, Town

Board, Zoning Board of Appeals, or other agency with regard to this Zoning chapter.

ART GALLERY

A type of retail use engaged in the sale, loan or display of art books, paintings, sculpture, or other works of art.

AUTOMOBILE SERVICE STATION

Any area of land, including structures thereon, or any building or part thereof that is used for the sale of motor fuel and which may include the sale of motor vehicle accessories, facilities for lubricating, washing or otherwise repairing and servicing motor vehicles, but not including body work, painting or the sales of vehicles.

AUTOMOTIVE REPAIR FACILITY

A commercial use wherein motor vehicles, including their mechanical systems and body structure, are repaired. This use also includes automotive painting conducted in conjunction with the repair work.

BAR (also TAVERN or PUB)

An establishment primarily devoted to the serving of alcoholic beverages and in which the service of food may be incidental to the consumption of such beverages.

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.

BATTERY ENERGY STORAGE SYSTEM

One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

(1) Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and if in a room or enclosed area, consist of only a single energy storage system technology. Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the New York State Uniform Code and Energy Code and applicable permit from the Town of Carmel Building Department, and/or other appropriate Town agency.

(2) Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than

600kWh or are comprised of more than one (1) storage battery technology in a room or enclosed area. Tier 2 battery energy storage systems are prohibited in the Town of Carmel.

BEACH, COMMERCIAL

A natural or man-made shore adjacent to a body of water or a constructed pool, open to the general public for a fee.

BED-AND-BREAKFAST ESTABLISHMENT

An owner-occupied dwelling in which no more than four (4) bedrooms are available as overnight accommodations for paying, transient guests to whom a morning meal may be served.

BILLBOARD

A sign which directs attention to a product, business, service or entertainment conducted, sold or offered elsewhere than upon the lot on which said sign is located.

BUILDING

A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy or use and having a roof.

BUILDING LENGTH

The mean horizontal distance between the furthermost walls of a building.

BUILDING LINE

A line, parallel to the street line, that passes through the horizontal plane of the principal building's façade/wall nearest the front lot line. The plane includes covered porches and decks, whether enclosed or unenclosed, but does not include steps or terraces.

CAMP

Any area of land or land and water, including any buildings, tents, shelters or other accommodations for recreational use, including such accommodations suitable for temporary or seasonal group living purposes.

CAMP, DAY

Any camp, as defined in this chapter, offering day care or instruction for adults or children and not qualifying as a private educational institution or day nursery, as defined in this chapter.

CELLAR

That space in a building that is partly or entirely below grade and which has more than half of its

heights measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CLUB, MEMBERSHIP

Premises of an organization of persons who meet periodically to promote some nonprofit social, athletic, service or recreational objective such as country, golf, swim, tennis and other court club, and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted, except as required generally for the membership and purposes of the club. A not-for-profit membership club shall not include a rod and gun club as defined herein.

CLUB, ROD AND GUN

A group or association of people organized for the purpose of engaging in recreational activities that involve hunting, fishing, target shooting, trapshooting, and skeet shooting on a wholly enclosed parcel of land, conducted exclusively by and for club members and their guests, characterized by membership qualifications, payment of fees or dues and a constitution and bylaws.

CLUSTER DEVELOPMENT

A subdivision plat, as authorized by 278 of the New York State Town Law, in which the bulk requirements set forth in the Schedule of District Regulations, is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.

COMPREHENSIVE PLAN

A Comprehensive Plan for development of the Town, prepared pursuant to § 272-a of the Town Law and adopted by the Town Board, consisting of text, maps, charts, studies, resolutions, reports and/or other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Town.

CONFERENCE CENTER

A building or buildings designed for conferences, seminars, meetings, and accessory uses used principally by conference center patrons, such as restaurants or recreation facilities.

CONSERVATION EASEMENT

An easement, covenant, restriction or other interest in real property which limits or restricts

development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property.

CONTRACTOR ESTABLISHMENT

A use including buildings and land area for the storage of materials, equipment and/or commercial vehicles utilized by building and construction contractors, craftsmen and tradesmen, and may include offices related to and accessory to such storage activities. Retail or wholesale trade of any contractor materials or supplies is not a permitted accessory use. Aggregate material processing of organic or inorganic materials including rock crushing, mulching, or soil screening is permitted accessory to the use only upon approval of a site plan by the Planning Board. The outdoor storage of materials and equipment shall require a special use permit from the Planning Board.

CONVALESCENT HOME or NURSING HOME

Any establishment where three (3) or more persons suffering from or afflicted with or convalescing from any infirmity, disease or ailment are habitually kept or boarded or housed for remuneration other than a group home or community residence, as defined by the Laws of the State of New York, municipal or incorporated hospitals and establishments for the care of the mentally ill, licensed by the State Commissioner of Mental Hygiene, or maternity homes licensed by the State Commissioner of Health or other governmental agencies.

COOP

A cage or pen designed to contain or house chickens and shall contain all of the following components:

(1) Nesting place for each chicken to lay eggs at least four (4) inches deep.
(2) Elevated roost or perch area for chickens to sleep.
(3) Ventilation.
(4) Insulation to prevent drafts and dampness.
(5) Accessibility to eggs and ability to clean out properly.

COOP RUN

A fenced or fully enclosed area attached to or encompassing a chicken coop in which chickens are allowed to run around and peck.

COVERAGE, BUILDING

The percentage of the lot area covered by the combined area of all buildings or structures on the lot, including the area of any floor space projecting beyond the outer limits of the first floor of all buildings on the lot, and excluding paved areas and underground fuel, drainage and water and

sewer systems.

COVERAGE, LOT

The percent of the lot area which shall include the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, paver areas, walkways and driveways and other site improvements or structures contributing to runoff greater than would occur on the site in its natural state and which introduces nonvegetative cover.

CRAFT BEVERAGE ESTABLISHMENT

An establishment which produces on the premises beer, wine, cider, vinous beverages, spirits or edible goods for off- and/or on-site consumption in accordance with New York State Liquor Authority, Department of Health and other applicable agency regulations. Such an establishment may include on-premises retail sales, tasting room, restaurant and/or a retail or retail sales of related products. This definition includes breweries, cideries and wineries.

CULTURAL AND PERFORMING ARTS CENTER

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

CUSTOM WORKSHOP OR STUDIO

A studio or other space used by an artist or artisan for the development, display, and sale of art or the instruction in a personal artistic skill such as fine arts, crafts, clothing, dance, martial arts, yoga, music, and similar uses, and not including retail sales or the manufacture of machinery, vehicles, appliances and similar heavy goods and ready-to-wear or standardized products.

DAY-CARE CENTER

A program licensed by the New York State Office of Children and Family Services pursuant to § 390 of the New York Social Services Law that provides care for seven or more children for more than three hours but less than 24 hours a day away from the child's home by an individual, association, corporation, institution or agency except those programs operating as group family day-care centers. "Day-care center" shall not refer to a day camp, an after-school program

operated for the primary purpose of religious education or a facility operated by a public school district.

DAY SPA

A commercial use where a combination of professionally administered personal care treatments such as massages, facials, body wraps, salt scrubs, and other body treatments are performed. Manicures, pedicures, and hair salon uses may also be conducted. The facility is only visited in connection with a treatment and only on a daily basis and the visitation does not involve an overnight stay or accommodation. If any such services are required to be licensed by the State of New York, then no such services may be conducted without a valid and current license.

DESIGNED SHOPPING CENTER

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

(a) Unified architectural treatment and signage and identifiable theme relating each of the commercial establishments within.
(b) A common interrelated parking and site circulation system with consolidated vehicular access to a street.
(c) Individual establishments oriented to pedestrian traffic by access signs and display, which are not generally visible or only incidentally visible to the parking areas.
(d) Shared amenities provided to patrons, such as benches, site decoration and landscaping and park area, restrooms and the like.
(e) Common spaces.

DRY CLEANING ESTABLISHMENT

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

DRIVE-THROUGH FACILITY

A facility accessory to a general commercial use with physical facilities, service or by packaging procedures, that allows customers to receive services and/or obtain goods while remaining in their motor vehicles.

DWELLING, ATTACHED

A building containing three (3) or more dwelling units, completely separated therefrom by a party or common wall with no openings therein, each unit being located on its own individual lot.

DWELLING, MULTIFAMILY

A building containing three (3) or more dwelling units.

DWELLING, MULTIFAMILY SENIOR

A building containing three (3) or more dwelling units all of which are occupied exclusively by persons 55 years of age or older, the spouse of any such person and/or the adult dependent handicapped or disabled child of any such person.

DWELLING, SEMIDETACHED

A building with two (2) dwelling units beside the other, completely separated therefrom by a party or common wall with no openings therein each unit being located on its own individual lot. Also referred to as a duplex.

DWELLING, SINGLE-FAMILY

A detached building designed for occupancy as one (1) dwelling unit for one (1) family, the unit being located on its own individual lot.

DWELLING, TWO-FAMILY

A detached building designed for occupancy as two (2) dwelling units for two (2) separate families with one dwelling unit located above the other.

DWELLING UNIT

One (1) or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one (1) family. A boarding house, nursing or convalescent home, fraternity or sorority house, hotel, lodging such as hotels, dormitories, or other similar uses shall not be construed to be a dwelling unit.

EDUCATIONAL INSTITUTION, PRIVATE

Any nonpublic school or institution conducting a regularly scheduled curriculum of study similar to that of the public schools, and operated by not-for-profit corporations under the Education Law of New York State. This does not include schools of a correctional nature, training schools or homes for delinquents or any other similar institutions having legal custody of their inhabitants.

ELECTRIC VEHICLE (EV)

Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes: a battery electric vehicle; or, a plug-in hybrid electric vehicle.

ELECTRONIC VEHICLE (EV) CHARGING STATION

An electric vehicle charging station, also called EV charging station, electric recharging point, charging point and EVSE, is an element in an infrastructure that supplies electric energy for the recharging of plug- in electric vehicles, including all-electric cars, neighborhood electric vehicles. All such stations will include designated and exclusive parking for vehicles charging. They are further defined by the type of charging equipment:

(1) Level 1 is considered slow charging and operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.

(2) Level 2 is considered medium charging and operated on a forty to one hundred amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.

(3) Level 3 is considered fast or rapid charging and operated on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three (3) phase circuit with special grounding equipment. Level 3 stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

ENTERTAINMENT PRODUCTION STUDIO

A facility in which activities studio associated within the development and production of sound, film, video and similar media take place. Nothing herein shall be construed to permit the creation of sexually-oriented media in connection with an entertainment production studio.

ENVIRONMENTAL CONSERVATION BOARD (ECB)

The Town of Carmel Environmental Conservation Board.

FAMILY

A. One (1) , two (2) or three (3) persons occupying a dwelling unit who pay a single shared amount for rental or mortgage purposes.

B. Four (4) or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

C. There shall be a rebuttable presumption that four (4) or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption are not the functional equivalent of a traditional family. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

(1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.

(2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.

(3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses.

(4) The group is permanent and stable. Evidence of such permanency and stability may include:

(a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools under the care of a parent, legal guardian or equivalent;

(b) Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;

(c) Members of the household are employed in the area;

(d) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;

(e) Common ownership of furniture and appliances among the members of the household; and

(f) The group is not transitory or temporary in nature.

(5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

D. Regardless of the composition of the family, the maximum occupancy of any residence shall be established based on the requirements of the New York State Property Maintenance Code.

E. Individuals residing in institutional uses, boarding homes, fraternities, sororities, clubs, associations, supervised or transient housing or other similar forms of housing shall not be considered a family.

FARM MARKET

A building and premises for the seasonal sale of agricultural products grown primarily within the Hudson Valley region.

FITNESS FACILITY

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

FLOOR AREA

The sum of the gross horizontal areas of any building or buildings, measured from the interior faces of interior walls. "Floor area" shall not include cellar space, stairways, unenclosed porches and breezeways or any floor space with a floor-to-ceiling height of less than seven feet.

FLOOR AREA RATIO (FAR)

The ratio of the total floor area of a building or buildings to the total lot area. It is expressed as a decimal number. Example: A lot with a building consisting of 20,000 square feet of gross floor area, with a lot size of 40,000 square feet, would have a floor area ratio of 0.5.

FUEL STORAGE

A nonresidential commercial facility used for the bulk storage of propane or fuel oil or petroleum products from which the product is transported to end users or other off-site storage facilities. A fuel storage depot has above ground storage tanks for the storage of fuel and may also include offices and accessory parking for employees and vehicles to distribute fuel to customers.

FUNERAL ESTABLISHMENT

A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

GARAGE, PRIVATE

A building or part thereof used by residents or other occupants of the site primarily for the storage of their motor vehicles. No more than one commercial licensed vehicle with a net weight exceeding 6,000 pounds and an overall length exceeding 20 feet shall be permitted to be stored in such garage.

GOLF COURSE

Premises having not fewer than six (6) holes improved with tees, greens, fairways, and hazards for playing the sport of golf, excluding miniature golf. Accessory structures and buildings may include but are not limited to a driving range, clubhouse, locker room, food stand, restaurant, banquet or conference rooms. Overnight accommodations are not permitted. A single dwelling for a groundskeeper is permitted subject to the regulations set forth in this Zoning chapter.

GRADE, FINISHED

The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks and roads adjoining the wall at that point.

GROCERY STORE

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

GUEST SLEEPING ROOM

Any habitable room used as a sleeping accommodation for transient occupancy in a short term rental, hotel or resort.

HABITABLE SPACE

A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility spaces and similar areas are not considered habitable spaces.

HEIGHT OF BUILDING

The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof in the case of flat and gable roofs.

HOME OCCUPATION

An accessory use conducted within a dwelling and carried on by an inhabitant thereof, which use is secondary to the residential use and which does not change the character thereof. Individuals engaged in the teaching of a musical instrument, including voice instruction where limited to a single pupil at a time, and the occupation of dressmaker, milliner or seamstress are deemed to be home occupations. A home office for licensed professionals including engineers, architects, and similar professions is regulated as a home occupation. Dance instruction, band instrument instruction in groups, tearooms, beauty parlors, barbershops, real estate offices or insurance offices shall not be deemed home occupations. (See § **156-36.16**.) For purposes of this Zoning chapter, a home occupation involving only the occupant owner of the dwelling, and which does not involve customer visitation, deliveries, or material storage shall be allowed without the need to obtain a special use permit.

HORSE BOARDING OPERATION

A horse boarding operation provides care, housing, health, related services and training to horses kept on the premises or on other properties owned or leased by the operator. Riding and training activities not open to the general public, that are directly related and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the operator for the horse that is boarded at the farm, are part of the operation. Riding academies and horse racing operations are not deemed to be a horse boarding operation.

HORSE RIDING ACADEMY

A facility where horses are boarded, cared for, and may be hired for riding. The facility also includes the instruction of horse riding, jumping, and showing.

HOSPITAL, GENERAL

As per Article 28 of the New York State Public Health Law, a health care facility engaged in providing medical or medical and surgical services primarily to inpatients by or under the supervision of a physician on a twenty-four-hour basis with provisions for admission or treatment of persons in need of emergency care and with an organized medical staff and nursing service, including facilities providing services relating to particular diseases, injuries, conditions or deformities. The term "general hospital" shall not include a residential health care facility, psychiatric hospital, public health center, diagnostic center, treatment center, outpatient lodge, dormitories or dwellings, dispensary and/or laboratory or central service facility serving more than one institution.

HOTEL

A commercial use consisting of overnight accommodations wherein in guest sleeping rooms shall be accessed from a lobby location and shared interior hallways, within a building or group of buildings, regularly provided and offered to the public for a period of not more than fourteen (14) consecutive days for compensation, and which is customarily open to transient guests. Accessory uses to a "hotel" may include a dining area, lounge, meeting rooms, swimming pool, office area for the conduct of business, indoor or outdoor fitness area, and other accessory uses determined accessory and appropriate during special use permit review.

HOTEL, BOUTIQUE

A hotel which contains no more than forty (40) guest rooms, and the occupancy of which is limited to one hundred (100) total guests, whether or not special functions, e.g., weddings, occur at the hotel.

HOUSE TRAILER

Any portable or mobile vehicle used or intended to be used for living purposes.

HOUSE TRAILER, IMMOBILE

Any house trailer other than a mobile house trailer.

HOUSE TRAILER, MOBILE

Any house trailer with its wheels, rollers or skids in place or capable of being readily moved from its location and having only temporary connections if connected to any water, electric or sewage disposal system.

JUNKYARD

A lot or part thereof or a structure used primarily for the collection, storage or sale of wastepaper, rags, scrap metal or other scrap or discarded material or for collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

LANDSCAPE MATERIALS, RETAIL AND WHOLESALE SALE OF

The sale of landscape materials, including the sale of trees, shrubs, or plants. Sale and storage of garden supplies, including hand tools, mulch, soil, decorative rock, pavers, and similar non-vegetative materials shall be allowed only where clearly incidental to the principal use and said accessory materials shall not occupy more than twenty-five (25) percent of the lot area. The materials aggregate processing of organic or inorganic materials including rock crushing, mulching, or soil screening are not permitted in conjunction with this use.

LIGHT INDUSTRY

A use engaged in the manufacture, predominately from previously prepared components or materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, and incidental storage, and distribution of such products, but excluding basic industrial processing. A "light industry" use shall be required to meet the performance standards set forth in this Zoning Chapter.

LOADING SPACE

A space, open or enclosed, for the loading or unloading of goods to or from a vehicle, having safe and convenient access to a street, at least twelve (12) feet wide, thirty-five (35) feet long with fourteen (14) feet of headroom.

LOT

A parcel of land whose boundaries are established by legal instrument, such as a recorded deed or map, and which is recognized as a separate parcel for the purposes of transfer of title.

LOT AREA

The total horizontal area included within lot lines, after excluding those resources set forth in § 156-11.E.

LOT AREA, GROSS

The total horizontal area included within lot lines, without exclusion of those resources set forth in § 156-11.E.

LOT, CORNER

A lot located at the junction of and having at least fifty (50) feet of frontage on two or more intersecting streets. Refer to § 156-11.H.

LOT DEPTH

The minimum horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, FLAG

A lot not meeting the minimum required lot width as measured at the required front yard line, but having the required lot width measured at a point somewhere in the interior of the lot. Flag lots are not permitted.

LOT LINE

Any boundary of a lot or property.

LOT LINE ADJUSTMENT

Any change in the location of existing property lines between two (2) or more adjoining properties. This definition shall not apply to the merger of lots into single larger lots.

LOT LINE, FRONT

The street right-of-way line at the front of a lot, whether said road is public or private.

LOT LINE, REAR

The lot line which is generally opposite the front lot line. If the "rear lot line" is less than ten (10) feet in length or if the lot comes to a point at the rear, the "rear lot line" shall be deemed to be a line parallel to the front line not less than ten (10) feet long, lying wholly within the lot and farthest from the front lot line.

LOT WIDTH

The dimension measured from side lot line to side lot line along a line parallel to the street line at the required minimum front yard depth. The minimum required lot width shall be maintained from the minimum front yard setback for a distance of not less than thirty-five (35) feet toward the rear lot line.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required

utilities. The home is designed for year-round occupancy of one family. The term does not include a recreational vehicle. Manufactured homes are allowed in a manufactured housing development.

MANUFACTURED HOUSING DEVELOPMENT

A parcel of land with two or more manufactured homes for rent or sale.

MANUFACTURED HOME AREA

The space which shall be assigned or used and occupied by any one mobile home.

MIXED USE

A combination of residential and nonresidential uses on the same lot or in the same building.

MOVIE THEATER

A place of public assembly used for spectator presentations including movie or professional theater, indoor concert venue or other performance with temporary or permanent seating, for admission to which an entrance fee is received.

MUSEUM

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

NYCDEP

New York City Department of Environmental Protection or successor agency.

NYSDEC

New York State Department of Environmental Conservation or successor agency.

NYSDOT

New York State Department of Transportation or successor agency.

NYSERDA

New York State Energy Research and Development Authority or successor agency.

NYSOPRHP

New York State Office of Parks, Recreation and Historic Preservation or successor agency.

NIGHTCLUB

An establishment where alcoholic beverages may be sold and consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area and/or designated dance floor. A nightclub does not include live dancing of undressed or semi-dressed persons.

NONCONFORMING USE

A pre-existing use of a building or of land that does not conform to the regulations as to use in the district in which it is situated.

NURSERY, DAY

A place, building or structure designed to provide care or instruction for two or more children under six (6) years of age.

NURSING HOME

See "convalescent home."

OFFICE

A use where services are performed involving predominately administrative or clerical operations for either business or professional purposes as follows:

(1) Business: A place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, insurance brokers, real estate brokers and persons with similar occupations. Nothing herein is intended to allow uses where the office space is clearly incidental and accessory to the principal use, e.g., a contractor storage yard, under the definition of a “business office”.

(2) Professional: An office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge. A professional office may include but not be limited to the office of an accountant, architect, consultant, engineer, or attorney.

(3) Medical: An office devoted to medical or dental care dispensed to persons on an outpatient basis by physicians or other medical professionals licensed in the State of New York, either singly or as a group, which may also offer laboratory and diagnostic facilities to patients on an outpatient basis.

OUTDOOR DINING

An outdoor area, on private, commercially used property, either on a sidewalk or other designated area, providing area for patrons/customers to sit or to stand, with or without tables, intended for the consumption of food and/or drinks.

PARKING SPACE

An off-street space which, exclusive of driveways and turning areas, is at least ten (10) feet wide and twenty (20) feet long, each space shall abut sufficient aisle space to be functional. However, a parking space may have dimensions of ten (10) feet by eighteen (18) feet if a raised bumper or wheel stop is provided allowing for a minimum two-foot overhang.

PERSONAL SERVICE USE

Commercial use including but not limited to barber shops, hair, nail, and tanning salons, shoe repair shops, bicycle repair shop, appliance repair shop, tailor and seamstresses, financial services, in which the product offered is the work or action performed. Personal service uses shall not be deemed to permit adult use businesses.

PIER, DOCK OR WHARF

A structure typically supported by columns extending from land into the water to provide berthing for boats. This term shall also include floating docks, which are anchored at the water's edge, and other forms of dockage.

PHARMACEUTICAL

A chemical substance, also referred to as a drug, medicine or medication, manufactured in accordance with all state and federal regulations, and used to treat, cure, prevent, or diagnose a disease or to promote well-being.

PLACE OF WORSHIP

The principal use of a building or structure(s) for regular organized religious assembly.

PLANNING BOARD

The Planning Board of the Town of Carmel.

PRINCIPAL BUILDING

A building in which the main or principal use of the lot is conducted. Also referred to as a "main building".

PUTNAM COUNTY PLANNING DEPARTMENT

The Putnam County Planning, Development and Public Transportation Department, or successor agency.

RECREATION CENTER

A planned facility, including any building or group of buildings and outdoor areas, open to use by or catering to the general public where recreational, athletic, meeting or exhibition facilities are provided, including playing fields, courts, arenas or halls designed to accommodate sports and recreational activities such as but not limited to billiards, bowling, gymnasiums, health spas, skating rinks, tennis courts, paddle tennis, handball and squash facilities, swimming pools, golf facilities and meetings and uses accessory and incidental to such uses including but not limited to facility offices, viewing areas, locker rooms, eating and drinking facilities and retail sale of goods associated with the primary activities. Facilities for automobile or animal racing are specifically excluded.

RESEARCH LABORATORIES

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

RESIDENTIAL STORAGE SHED

A building in excess of one hundred fifty (150) square feet with a height no greater than fourteen (14) feet, accessory to a single-family dwelling, for storage located in a rear or side yard of a lot in the residential zone.

RESIDENTIAL STORAGE SHED, SMALL

A building, not more than one hundred fifty (150) square feet with a height no greater than fourteen (14) feet, accessory to a single-family dwelling, for storage located in a rear or side yard of a lot in the residential zone.

RESORT

A commercial use consisting of overnight accommodations with guest sleeping rooms, within a building or group of buildings that incorporate indoor and/or outdoor recreational facilities as integral and accessory uses into the overall design of the resort. A resort lodge may also include meeting rooms or conference center, dining facilities, and other areas for social gathering.

RESTAURANT, FAST FOOD WITH DRIVE-THROUGH

Any type of restaurant defined herein, where food is commercially sold through a drive through facility.

RESTAURANT, SIT DOWN

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

RESTAURANT, TAKE OUT

Any establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building, or for carryout, and where either:

(1) foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers; or
(2) where there is no table service. Use of a carhop or parking lot to bring food service to a car or use of a drive through facility is not permitted.

RETAIL USE

A commercial use where merchandise is sold to the general public for personal or household use or consumption, including but not limited to a florist, hardware store, pharmacy, convenience store, stationary store, bookstore, clothing store, shoe store, and jewelry store. The storage of merchandise on the premises shall be clearly incidental and accessory to the space dedicated to retail sale of products and shall not exceed forty-five (45) percent of the total gross floor area of the building within which the retail use is situated.

ROAD SPECIFICATIONS

The Town of Carmel construction and design standards for streets, roads and drainage installations as set forth in Chapter 128, Streets and Sidewalks, of the Town of Carmel Code.

ROD AND GUN CLUB; HUNTING CLUB

A primarily vacant tract of land used by members of a membership club for hunting and fishing.

SELF-STORAGE WAREHOUSE

A building or group of buildings divided into separate units or compartments in which the renter or owner has direct access to said unit or compartment.

SHORT TERM RENTAL ("STR")

A single-family detached owner-occupied dwelling, or building accessory thereto on the same lot, which is rented in whole or part, to any person or entity for a period of up to but no more than fourteen (14) consecutive days. For purposes of this definition, a "rental" means "an agreement granting use or possession of real property, to a person or group of persons in exchange for consideration including, but not limited to, money, goods, services, credits, or other items of value". Campsites, glamping and other overnight accommodations shall not be deemed to be a "Short Term Rental".

SIDEWALK

Any paved area between the curbline and a structure designed for pedestrians, whether publicly or privately owned, which is used by the public or open to use by the public.

SIDEWALK CAFE

An outdoor dining and drinking area located on the public sidewalk, which is public through dedication, easement or public right-of-way, and contains readily removable tables, chairs and railings or temporary dividers and may contain planters. It is otherwise unenclosed by fixed walls and open to the air, except that it may have a retractable awning or umbrella.

SIGN

Any temporary or permanent display of lettering, numbers, logos, designs, colors, lights, or illumination visible to the public from outside of a building or from a public right-of-way which conveys a message to the public or intends to advertise, direct, invite, announce or draw attention, directly or indirectly, to a use conducted, events, goods, products, services, or facilities available. A sign does not include the flag or pennant or insignia of any nation or association of nations or of any state, city, or of any charitable, educational, philanthropic, civic, or religious organization. Public traffic, street or directional signs are not included.

SIGN AREA

The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. Where the faces of a back-to-back sign are parallel or within and no more than thirty-five (35) degrees of parallel, only one sign face area shall be used in determining the sign area. If

the sign faces are not within thirty-five (35) degrees of parallel, the sign face area shall be determined on the basis of the sum of the areas of each sign face.

SIGN, ADVERTISING

Any sign promoting products sold or services provided.

SIGN, BOX

Any sign with a metal or wood frame which has plastic or glass panel sign faces and is internally lit.

SIGN, FAÇADE

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

SIGN, GOVERNMENTAL

A sign that is constructed, placed, or maintained by the federal, state, or local government or a sign that is required to be constructed, placed, or maintained by the federal, state, or local government either directly or to enforce a property owner's rights.

SIGN, MONUMENT

A low-profile, freestanding sign supported by a structural base or other solid structural features other than support poles, which may contain a sign face on each of the two sides of the minimum sign.

SIGN, NEON

A sign illuminated by neon lamps or similar luminaires.

SIGN, PERMANENT

A sign permanently erected on a property or structure by fastenings intended to provide such permanence.

SIGN, PORTABLE

A sign that is designed to be movable and not structurally attached to the ground, a building, a structure or another sign. Portable signs include but are not limited to those that allow the creation of customized messages by way of inserting letters into a frame.

SIGN STRUCTURE

The supports, uprights, bracing and framework for the sign.

SIGN, TEMPORARY

Any sign, pennant, and/or banner or similar sign which is erected for a limited period of time and is not permanently affixed to the ground or structure.

SITE PLAN

A scaled rendering, drawing, sketch or maps drawn to the specifications of this Zoning chapter of one or more lots which illustrates the existing and proposed arrangement, design and layout of uses, buildings and structures located or to be located on the lot, including but not limited to the information specified in § **156-83**.

SPECIAL USE PERMIT

An authorization by the Planning Board or Town Board of a particular use of land or structure which is permitted in this Zoning chapter, subject to any general or specific requirements imposed by this Law to assure that the proposed use is in harmony with the purposes of the Law and will not adversely affect the neighborhood if such requirements are met.

STEEP SLOPE

Any slope that is twenty-five (25) percent or greater.

STORY

That part of any building comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the underside of the roof beams. 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 story where it meets the requirements for habitable space.

STREET

A way which is an existing State, County or Town highway, or a way shown upon a subdivision plat approved by the Town Planning Board, as provided by law, or on a plat duly filed and recorded in the office of the County Clerk.

STREET LINE

The line between the street and a lot or a line, whether or not in public ownership.

STRUCTURE

Anything constructed or erected, except fences and/or walls with a height of six feet or less, which requires location on or in the ground or attachment to something having a location on or in the ground, which shall include docks and piers.

SUBDIVISION

The division of any parcel of land into two (2) or more lots, plots, sites or other division of land, with or without streets, including any change of property lines.

TOWN BOARD

The Town Board of the Town of Carmel.

TRADE OR VOCATIONAL SCHOOL

A specialized instructional school that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, computer repair, hairdressing, truck driving, construction equipment operation or other similar activities.

USABLE OPEN SPACE

A portion of the ground area of a lot which is available and accessible to all occupants of a dwelling unit or dwelling units on said lot for outdoor use, which area is not devoted to driveways or parking spaces, is at least a twenty-five (25) foot minimum dimension and has no more than ten (10) percent of its area with a grade of more than five (5) percent.

USE, PRINCIPAL

The primary purpose for which land, water or building or structure is used, designed, arranged, intended or for which it is or may be occupied or maintained.

WATERCRAFT

A boat, ship, or water vehicle driven by air, motor, or human power, intended for recreational purposes.

WHOLESALE OR WAREHOUSE USE

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

YARD

An open and unobstructed ground area of a lot, which area extends inward from the nearest lot line to a principal building or use and is unoccupied except for accessory uses or structures that may be permitted by this Zoning chapter.

YARD, FRONT

An open space within and extending the full width of the lot between all street lines and the parts of the building nearest to such street lines. The depth of a front yard shall be measured at right angles to the front line of the lot and from the existing or proposed right-of-way line (or other properties, e.g., the City of New York's) as proposed by the responsible public entity.

YARD, REAR

An open space within and extending the full width of the lot between the rear lot line and the parts of the building nearest to such rear lot line. The depth of a rear yard shall be measured from the rear line of the lot or its vertical projection to the part of the building that is nearest thereto at any story level.

YARD, REQUIRED

A required yard is that portion of any yard extending inward from a lot line the minimum distance specified in the Schedule of District Regulations for the district in which the lot is located, and any other bulk requirements set forth in the Zoning chapter.

YARD, SIDE

An open space within and extending the full length of the lot, between the side lot line and the part of the building nearest to the lot line. The width of a side yard shall be measured at right angles to the side lot line of the lot.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Town of Carmel. Also referred to as the “Board of Appeals”.

Article II General Use and District Requirements

§ 156-9 Schedule.

No building, structure or lot shall be erected, altered or used in any zoning district except in accordance with the "Schedule of District Regulations" which schedule is hereby adopted and made a part of this Zoning chapter. Said schedule may be amended in the same manner as any other part of this Zoning chapter.

§ 156-10 Compliance required.

In addition to uses specifically prohibited by this chapter and the Schedule referred to herein, no building, structure or land shall be used, nor shall any building, structure or part thereof be constructed or altered, nor shall any use of land be changed, where said use, construction or alteration of land, structure or building is intended, arranged or designed to be used in whole or in part for any use or purpose except the uses specifically allowed as a permitted, special use or accessory use for each district in the Schedule of District Regulations. The omission of any use or type of use from said schedule shall be deemed to be an exclusion thereof from all districts. Refer also to § 156-6.D, Prohibited Uses, of this Zoning chapter.

§ 156-11 Buildings, uses and lots; additional standards and exceptions.

A. Lot for every building. Every building shall be located on a lot and, except for nonresidential buildings in districts where such uses are permitted and where otherwise set forth herein, there shall be not more than one principal building and its accessory buildings on one lot.

B. Yard and open space for every building. No yard or other open space required for the purpose of complying with the provisions of this Zoning chapter shall be considered as providing a required open space or yard for any other building on the same or any other lot.

C. Subdivision of a lot. No lot shall be formed from part of a lot already occupied by a building unless such building and all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the zoning district in which said lot is located. No permit shall be issued for the construction of a building on any new lot thus created, unless such building and lot comply with all the provisions of this chapter, the Subdivision Regulations and all other applicable rules, regulations and codes of the Town of Carmel and the State of New York.

D. Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape

of the lot or parcel, the Board of Appeals shall determine how the requirements of this chapter shall be applied.

E. Net lot area. Whenever the phrase lot area, minimum lot area, or minimum lot size or similar term appears in this chapter, such phrase shall be deemed to be based upon net acreage or net square footage following the exclusion of the following lands:

(1) The 100-year floodplain as defined by and illustrated on the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as those maps now exist or as they may be amended from time to time;

(2) Wetlands, including those regulated by the Town of Carmel, the U.S. Army Corps of Engineers, and/or New York State designated wetlands but excluding the 100-foot regulated adjacent area, and federally regulated wetlands, as those wetlands now exist or may be found to exist;

(3) Lands under water, and lands covered by natural or constructed water bodies including, without limitation, retention and detention basins.

(4) For slopes equal to or greater than twenty-five (25) percent but less than thirty-five (35) percent, fifty percent (50%) of said acreage shall be excluded.

(5) For slopes equal to or greater than thirty-five (35) percent, one hundred percent (100%) of said acreage shall be excluded.

(6) Land encumbered by easements or other restrictions, including utility easements, preventing use of such land for construction of buildings, uses, and/or development.

The net lot area, after exclusion of the features set forth above, shall be calculated, and any permissible residential density or nonresidential development of land shall be calculated utilizing the net lot area. Any fractional dwelling unit shall be rounded down to the nearest whole number.

F. Required street frontage. No building permit shall be issued for any structure unless the lot upon which that structure is to be built has frontage and maintains access from a Town, County or State road or highway equal to the minimum lot width applicable to the zoning district and use as per the Schedule of District Regulations, which street or highway shall provide safe access as required by § 280-a of the New York State Town Law. A lot which fronts to and obtains access from a cul-de-sac, turnaround or similar street design shall be provided a minimum frontage that is equal to seventy-five (75) percent or greater of the required street frontage as set forth herein but in no case shall any street frontage be less than fifty (50) feet.

G. Building setbacks. No building erected on any lot need be set back farther from the street line than the average alignment of existing buildings within two hundred fifty (250) feet of either side lot line. However, regardless of the alignment of the neighboring buildings, no building erected between two existing buildings on immediately adjacent lots need be set back farther from the street right-of-way lines than said two buildings.

H. Corner lots. In the case of corner lots, all yards along street lines shall be deemed to be front yards.

I. Encroachments.

(1) No porch, deck or balcony may project into any required yard. A terrace attached to a building shall not be considered in the determination of yard requirements or lot coverage; provided, however, that such terrace is unroofed and without walls, parapets or other form of enclosure and shall at no point exceed a height of twelve (12) inches above the ground. A terrace may have a guardrail or fence, not greater than four feet in height, measured from the surface of the terrace.

(2) Projecting horizontal architectural features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than three (3) feet into any required yard.

(3) Awnings. No awning or similar weather-shielding features projecting beyond the property line of any lot into the sidewalk shall be erected or maintained on any building unless such awning or feature is at all points in its lowered position at least seven (7) feet above the level of said sidewalk area. No awning or other similar feature may project beyond said property line a distance greater than six (6) feet and shall be firmly affixed to the building.

J. Sight triangle. At all street intersections, no obstructions to vision exceeding thirty (30) inches in height shall be erected, installed or maintained on any lot within the triangle formed by the street lines on such lot and a line drawn between points along such street lines thirty (30) feet distant from their point of intersection.

K. Height exceptions.

(1) Chimneys (other than chimneys for central heating plants), flues, ventilators, skylights, towers, bulkheads, water tanks, cooling towers and all other decorative features and necessary mechanical appurtenances and similar features usually carried above the roof level, but excluding telegraph, radio and television transmission or broadcasting antennas, shall be exempt from the height provisions of this chapter, provided that:

(a)The aggregate area covered by all such features, but excluding solar-heating features, shall not exceed 20% of the area of the roof of the building of which they are a part.

(b) The height of each such feature shall not exceed fifteen (15) feet above the level of such roof measured at the highest point of such roof.

(c) All such features shall be constructed or enclosed within walls of a material and design deemed by the Planning Board or Building Inspector to be in harmony with that of the main walls of the building of which they are a part.

(2) Where the height of a building conforms to the requirements of this chapter on that side or sides thereof which face(s) the street, but where, due to the topography of the lot, said height is in excess of said requirements along one or more sides of such building other than the side or sides which face(s) the street, the Building Inspector may issue a building permit, provided that at no point along the periphery of the building does the height thereof exceed by ten (10) feet and/or by one story, the maximum height prescribed by this chapter for the district in which such building is located. (See definition of "height of building" in § **156-8**.)

(3) A cable television receiving antenna owned and operated by a public utility franchised by the Town of Carmel shall be exempt from the height provisions of this chapter, provided that it does not exceed a height of one hundred twenty-five (125) feet.

§ 156-12 Pre-existing lots/dwellings.

Any owner of a lot in existence on the effective date of this Zoning chapter, and with an existing dwelling held in single ownership, that seeks a building permit to construct an addition or permitted accessory structures regulated herein, shall meet the following minimum requirements based on net lot area. The Building Department shall determine the status of any pre-existing lots/dwellings based on the records on file with the Building Department. The below shall not apply to land which was vacant, or only contained accessory structures and no principal use, on the effective date of this Zoning chapter.

	Principal Use			Accessory Use		
Minimum Lot Area (acres)	**Minimum Front Yard (feet)**	**Minimum Side Yard (feet)**	**Minimum Rear Yard (feet)**	**Minimum Front Yard (feet)**	**Minimum Side Yard (feet)**	**Minimum Rear Yard (feet)**
Up to but less than 1/4	25	10	15	25	10	10
1/4 to less than 1/2	25	15	20	25	10	10
1/2 to less than 1	40	20	30	40	15	15
1 or larger	40	25	40	40	20	20

§ 156-13 and 14. Reserved.

Article III Supplementary Use Regulations

§ 156-15 Accessory dwelling units ("ADU").

A. Purpose. It is the specific purpose and intent of this section allowing an apartment accessory to a single-family detached dwelling to provide the opportunity for the development of small, rental units designed to meet the special housing needs of single persons and couples, both young and old, and of relatives of families living in the Town of Carmel. Furthermore, it is the purpose and intent of this subsection to allow the more efficient use of the Town's existing dwellings, to provide economic support for present resident families, to protect and preserve property values, to ensure healthy and safe living conditions for individuals, and to have more efficient regulation and control of Town growth and development. In furtherance of these objectives, specific standards are set forth below for accessory dwelling units.

B. Standards.

(1) There shall be only one (1) ADU on the property and it shall be located either in the existing single-family dwelling or in an existing accessory building, provided the accessory building was constructed prior to the effective date of this chapter and complies with all other applicable regulations and setbacks for an accessory building. Any changes to create an ADU shall be within the existing building footprint. If an accessory dwelling is proposed in a detached building, such structure must be located not more than five hundred (500) feet from the closest exterior wall of the principal dwelling. Nothing herein shall permit any landowner from subdividing the lot so as to place the ADU on a separate individual lot.

(2) The owner of the property shall reside in the principal or accessory dwelling.

(3) The ADU shall have a minimum habitable floor area of four hundred (400) square feet, but shall be no larger than thirty-five (35) percent of the habitable floor area of the single-family detached dwelling and no more than six hundred fifty (650) square feet of habitable floor area in the accessory building.

(4) The accessory dwelling unit shall be a self-contained dwelling unit, with a separate external entrance and separate cooking, bathroom and sleeping facilities for the exclusive use of the occupant.

(5) There shall be no more than two (2) bedrooms in the accessory dwelling unit.

(6) The principal building shall portray the character of a single-family detached dwelling. Only one

(1) entrance shall be permitted on the side or sides of the single-family dwelling facing the front lot line; all other entrances shall be limited to the side or sides of the building not visible from the front lot line.

(7) Adequate provisions shall exist for water supply and for the disposal of sewage and waste generated by the occupants, in accordance with the requirements of the Putnam County Department of Health. Evidence of the approval of the proposed method and adequacy of water supply and sewage disposal shall be obtained from the Putnam County Department of Health. Approval of the Town Engineer shall be required if the proposed method of water supply or sewage disposal would involve Town water or sewer facilities.

(8) One (1) off-street parking space shall be provided for each bedroom in an ADU. Said parking shall be in addition to the parking required by this chapter for the single-family dwelling and shall comply with the dimensional, setback and access requirements of this Zoning chapter.

(9) The accessory dwelling unit shall conform to all requirements of the New York State Building Code and all applicable State, County and Town regulations.

(10) A building permit shall be obtained along with all required permits as determined by the Building Department, and a certificate of occupancy shall be obtained prior to its occupancy.

C. Application. The Applicant shall file an ADU application with the Building Department which shall include of the following information:

(1) Name and address of owner.

(2) Lot area, tax map sheet-block-lot number and zoning district in which the property is located.

(3) Square footage of the entire structure and square footage of the accessory dwelling unit.

(4) Number of existing and proposed on-site parking spaces.

(5) Approval(s) pursuant to Subsection **B(7)** above relative to the proposed method of water supply and sewage disposal.

(6) Current property survey showing size of the lot in square feet and all structures thereon as well as parking area prepared and sealed by a licensed surveyor, engineer or architect.

(7) A floor plan, drawn to scale, of the entire structure showing proposed changes and identification of accessory dwelling unit.

(8) Signed notarized authorization by the owner authorizing the Town of Carmel Building Department to make inspection(s) of the property at any reasonable time during daylight hours for the purpose of determining compliance with all code requirements, including those of this subsection.

(9) An application fee in an amount set forth in a Fee Schedule adopted by the Town Board.

D. Action. The Building Inspector shall either approve or disapprove the application within thirty (30) days of the date of a complete submission. In the case of an approval, the office of the Building Department shall inspect the ADU to ensure continuing compliance with all codes. If all codes are not met, the ADU permit shall be subject to revocation after a hearing by the Zoning Board of Appeals at which the permit holder is given an opportunity to be heard.

E. Inspections/verification. At the time of permit issuance and at any reasonable time thereafter, the Building Department may require various forms of proof that either the principal dwelling or the ADU is occupied by the owner of the property as his or her principal residence. Such forms of proof include, but are not limited to, an affidavit by the owner, copies of utility bills, tax bills and proof that the owner does not have his or her mail forwarded to a different address.

F. Refusal of lawful inspection and/or violation of continuing conditions of special permit. If any lawful inspection of the dwelling by the Town for the purpose of ensuring compliance with the provision of this subsection is refused by the owner when said inspection occurs at any reasonable time during daylight hours, or if the continuing conditions of the special permit are violated, the special permit shall be subject to revocation after a hearing by the Zoning Board of Appeals at which the permit holder is given an opportunity to be heard.

G. Renewal and revocation of permit. The accessory dwelling permit shall be valid for a period of three (3) years from the date that a certificate of occupancy is issued for the accessory dwelling, and it shall be renewed automatically and annually by the Building Inspector upon submission by the record owner of an annual certification for renewal to be provided by the Town, attesting that the principal single-family dwelling or accessory dwelling unit is maintained as the owner's domicile; and payment of a renewal fee, in such amount as established by resolution of the Town Board, provided the Building Inspector determines such use has been maintained in accordance with all requirements herein and any applicable conditions of approval. The accessory dwelling permit may be revoked by the Building Inspector at any time after due notice to the permittee, for failure to comply with the standards of this section, building code violations, or for reasons as cited by the Town Building Inspector.

H. Transfer of title. Within sixty (60) days after the record owner transfers title to premises for which a permit has been granted for an accessory dwelling unit, the new record owner shall provide such evidence to the Building Inspector as may be necessary to demonstrate that one (1) of the units is occupied by the new record owner in accordance with requirements this section. In the event that the new record owner fails to do so, the Building Inspector shall serve a written notice upon the owner or occupant to do so by a date certain. In the event that the record owner fails to do so, the Building Inspector shall give notice of such noncompliance to the record owner and shall commence such enforcement actions which are necessary to bring the accessory dwelling into compliance or to require removal of the ADU.

I. Removal. In the event the principal dwelling or the accessory dwelling is no longer occupied by an owner/occupant, the permit shall expire and the use shall be removed within thirty (30) days after such cessation of occupancy, unless for good cause an extension of said time is granted in writing by the Building Department.

§ 156-16. Affordable housing.

A. Findings. The Town Board of the Town of Carmel finds that:

(1) The social and economic diversity of the Town is dependent upon a reasonable supply of affordable housing; and

(2) The Town's Comprehensive Plan encourages the creation of affordable housing within the Town; and

(3) It is important that householders that are employed in the Town of Carmel, or provide an essential volunteer service to the Town Carmel, be provided an opportunity to obtain housing that is affordable.

B. Methods to achieve affordable housing.

(1) The Town Board, to promote continuing housing affordability, can accomplish the foregoing objectives through a variety of methods as follows:

(a) Construction of affordable housing on site;

(b) Payment of an affordable housing fee to the Carmel Housing Trust Fund in lieu of the construction of affordable housing as per this section;

(c) Donations of land to the Town suitable for the construction of affordable housing;

(d) Construction of affordable housing off site within the Town;

(e) Rehabilitation of substandard housing to standard affordable housing;

(f) Purchase of existing housing for conversion to affordable housing;

(g) A combination of the above.

(2) The Town Board shall approve, in its sole discretion, the method or combination of methods that shall be used to meet the provisions of this section of the Zoning Law based on the unique characteristics of the application being reviewed and based on a recommendation of the Planning Board. Donations of land or construction off-site shall result in a number of dwelling units equal to the number of the required units or equal in value to the affordable housing fee.

C. Applicability.

(1) Zoning districts. These provisions shall apply to any residential application in any zoning district.

(2) Applications of fifty (50) or more dwellings and/or lots. Any site plan, special use permit and/or subdivision plan application that proposes fifty (50) or more residential lots or dwellings or combination thereof shall be required to set aside ten percent (10%) of the total number of lots/dwellings for "moderate-income households" as that term is defined by this Zoning chapter. This set-aside constitutes the applicant's affordable housing obligation. A market-rate density bonus of ten percent (10%) of the total number of dwellings shall be granted to the applicant for meeting the required set-aside. Calculations resulting in 0.5 dwelling or more shall be rounded down to a whole dwelling unit.

Example:
An applicant proposes a subdivision or site plan of 50 dwellings and/or lots:
- Affordable Housing Obligation = 50 dwellings/lots x 10% = 5 dwelling/lots
- Initial buildout is 45 market rate dwellings/lots +5 affordable dwellings/lots
- Market-Rate Density Bonus = 50 dwellings/lots x 10% bonus = 5 market-rate dwelling/lot
- Final Buildout = 50 dwellings/lots, which includes 5 affordable dwelling/lot, + 5 market-rate dwelling/lot = 55 dwellings/lots

D. Procedure for determining affordable housing requirements.

(1) Affordable housing statement. Every residential site plan, special use permit or subdivision plan subject to the provisions of this this section shall include an affordable housing statement. The statement shall address:

(a) The applicability of this section to the proposed residential development, including the number of affordable dwellings to be constructed;

(b) The method by which affordable housing shall be achieved as per subsection B above;

(c) Appropriate notations on any plan, building elevations, floor plans, and other information submitted in support of the application indicating the location and design of any affordable dwelling;

(d) Any other documentation that the Planning Board and/or Town Board determines will be required to evaluate the application.

(2) The Town Board shall approve, or approve with modifications, the affordable housing statement prior to the Planning Board acting on any application.

(3) Affordable housing notation. Notes shall be placed on any site plan or final subdivision plan reciting the affordable housing obligations of the applicant in conjunction with the plan. If applicable, this shall include the recording of notes on a plan indicating which lots or sites are to be set aside for the construction of affordable housing. The Town Board may require the imposition of deed restrictions ensuring that future lots are restricted to the construction of affordable housing. The Town Board, as a condition of approval, may require that an applicant pay an affordable housing fee where the applicant proposes to set aside a lot in a subdivision for the construction of affordable housing, but where the applicant does not propose to construct an affordable dwelling.

(4) Conditions on decision of approval. A site plan, subdivision and/or special use permit shall include specific conditions referencing the requirements of this section of the Zoning chapter. Noncompliance with the provisions of this section shall be grounds for the Planning Board to disapprove a special use permit, site plan or subdivision application.

(5) Violations. A violation of this section shall be deemed to be a violation of the subdivision, site plan and/or special use permit approval, as the case may be. Said violation may be addressed by the Town of Carmel pursuant to Article XII, Administration and Enforcement, of this Zoning chapter. In addition, any such violation shall, after the conduct of a public hearing, and notice to the applicant, be grounds for rescission of the subdivision, site plan and/or special use permit approval granted by the Planning Board.

(6) Other procedures prescribed by the Town Board. The Town Board, by local law or resolution, shall prescribe such other procedures and requirements as it deems necessary for the approval

of affordable housing in conjunction with a special use permit, subdivision plan or site plan.

(7) Waiver of fees. The Town Board may waive in whole or in part other building, zoning or land development fees where it finds that such waiver shall improve affordability.

E. Affordable housing fee. The affordable housing fee shall be determined by the Town Board. The fee shall be calculated using the current cost of construction. The affordable housing fee, if approved by the Town Board for a particular application, shall be noted in any affordable housing statement and made a condition of any site plan, special use permit and/or subdivision approval. The affordable housing fee shall be paid at the time of the application for the first building permit issued for the applicant's site plan or subdivision plan, or at the time of the sale of the first lot or lots within a subdivision, whichever shall occur first. As a condition of approval, the Town Board may establish a phasing schedule for the payment of the affordable housing fee. In no event, however, shall payment be deferred for more than two years after filing of a final site plan or subdivision plan unless the time period for said payments is extended by the Town Board. A sample calculation of the buildout with a payment in lieu of housing is as follows:

Example:
An applicant proposes a subdivision or site plan of 50 dwellings/lots:

- Affordable Housing Obligation = 50 dwellings/lots x 10% = 5 dwellings/lots
- Initial Buildout is 45 dwellings/lots + 5 affordable dwellings/lots
- Market-Rate Density Bonus = 50 dwellings/lots x 10% bonus = 5 market-rate dwellings/lots
- Applicant provides fee in lieu of 5 affordable dwelling/lots
- Final Buildout = 45 dwellings/lots + fee in lieu of 5 affordable dwellings/lots + 5 market-rate dwellings/lots, or 50 dwellings/lots and fee in lieu of 5 affordable dwellings/lots

F. Standards applicable to affordable dwellings.

(1) Integration of affordable dwellings. All affordable dwellings shall be physically integrated into the existing or new development and constructed with the same quality building materials as market-rate units. An affordable dwelling shall resemble, from the exterior, the market-rate dwellings in the development or surrounding neighborhood, as the case may be. The Town Board has the authority to review and approve the interior finishes of affordable housing. Said interior finishes may vary from those established for market-rate dwellings within the same development where the Town Board finds that said variation will improve housing affordability.

(2) Affordable dwellings by housing type. Affordable dwellings shall be the same housing type as the market-rate housing type for single housing type developments. For example, if a development proposes single-family detached dwellings, then the affordable housing units shall be single-family detached dwellings. For mixed housing type developments, e.g., single-family

detached and single-family attached, the affordable dwellings shall be constructed in the same proportion as the mix of housing types for the market-rate units, except that the Town Board, in its discretion, may vary this requirement where it determines that an alternative mix of affordable housing units will improve housing affordability and negate equity issues when allocating dwellings among eligible households.

(3) Dwelling type and size. An affordable dwelling may be a multifamily, single-family detached or single-family attached dwelling subject to the occupancy standards set forth below. The Town Board has the authority, by local law or resolution, to establish a minimum and maximum size for affordable dwellings by housing and bedroom type.

(4) Phasing. For any development that will be constructed in phases, the schedule below shall apply. Certificates of occupancy shall be issued for market-rate dwellings when the required percentage of affordable dwellings has been completed and a certificate of occupancy issued for the affordable dwellings.

Percentage of Market-Rate Dwellings Receiving Certificates of Occupancy	**Percentage of Affordable Dwellings Receiving Certificates of Occupancy**
Up to 25% of total	0 (none required)
50%	At least 50%
100%	100%

(5) Occupancy standards.

(a) To prevent overcrowding or underutilization of affordable housing at the time of purchase or rent, the following schedule of occupancy shall apply:

Number of Bedrooms	**Maximum Number of Persons**
0 (studio)	1
1	2
2	4
3	6
4	8

(b) The affordable dwelling shall be the primary residence of the owner or renter. An owner shall not rent the affordable dwelling to others and a renter may not sublet the affordable dwelling, except that one-year subleases shall be permitted if the household is required to move temporarily for reasons of employment, health, or family emergency, not to exceed a total of two years. This exception shall not apply to a developer of an affordable dwelling.

(6) Maintenance as a continuing obligation. An affordable dwelling shall be maintained as affordable in a manner as prescribed by procedures established by the Town Board or its designee. No household shall make any improvements that require a building permit without prior written permission.

(7) Builder's specifications. An affordable dwelling shall be maintained at least at the original builder's specification level. At the time of resale, the Town Board may determine that such unit has not been properly maintained and shall be authorized to impose such assessments as necessary to reasonably return the dwelling to its original conditions. Such assessment shall be deducted from that portion of the selling price reverting to the seller of the unit.

(8) Affordability restrictions. An affordable dwelling shall remain affordable for thirty (30) years and shall be reflected in the deed to the unit. The Town may impose covenants and restrictions upon such units/lot to ensure they maintain their affordability for this time period.

(9) Tax assessment. The Tax Assessor of Carmel shall consider the limited resale value of an affordable dwelling and/or the limited rental value of units when determining the appropriate assessment on said dwelling.

(10) Additional standards.

(a) The Town Board, by local law or resolution, may establish such other standards, rules and regulations it deems necessary to ensure the design intent applicable to an affordable dwelling is met.

(b) The following minimum standards are hereby established:

Affordable Housing Size and Building Standards				
Building Type	**Number of Bedrooms**	**Minimum Gross Square Footage**	**Maximum Gross Square Footage**	**Number of Bathrooms**
Single-family attached or detached	2	1,200	1,500	1
	3	1,400	2,000	1.5
Garden-style condominiums (owner-occupied)/ apartments (renter-occupied)	0	550	700	1
	1	650	850	1
	2	800	1,000	1
	3	950	1,200	1.5

(3) Additional design standards:

(a) All affordable housing must have a refrigerator, range and range hood, dishwasher, and complete electric and plumbing connections and a dryer exhaust for a clothes washer and dryer.
(b) The refrigerator must be at least 18 cubic feet and frost-free. A thirty (30) inch electric, porcelain-enameled range/oven and range hood must be supplied.
(c) All carpeting must meet minimum Federal Housing Administration (FHA) specifications.
(d) Unit landscaping must be as designated on an approved site or subdivision plan.
(e) Shelving must be included in closets.
(f) The main bathroom must include a vanity.
(g) Affordable housing shall have full basements if market-rate units have full basements.
(h) Use cement board siding or other long-lasting siding in the construction of affordable dwellings.

G. Sales and rental values.

(1) Affordable for-sale dwelling.

(a) Calculation of initial sales price. The initial sales price shall be set by a schedule prepared annually by the Town Board which shall ensure that an income-eligible household shall have adequate income to qualify to purchase an affordable dwelling. The initial sales price of an affordable dwelling shall be calculated such that the annual cost of the sum of principal, interest, taxes and insurance (PITI) and common charges, as applicable, shall not exceed thirty (30) percent of the income of a household earning eight (80) percent of the Town of

Carmel median family income adjusted for bedroom size, using a standard of one-and-one-half (1.5) persons per bedroom. Costs shall be determined based on a thirty (30) year fixed-rate mortgage at prevailing interest rates with a downpayment of five (5) percent.

(b) Resale of affordable dwelling. The Town Board shall establish, by local law or resolution, procedures for the resale of an affordable dwelling to ensure that the units remain affordable while allowing for a limited equity appreciation for the homeowner which may be limited to the consumer price index applicable to Putnam County.

(c) Deed restriction. The original deed and any subsequent deed or instruments used to transfer title to an affordable dwelling shall include a provision indicating that the housing unit is an affordable dwelling subject to restrictions on occupancy and resale. Said restrictive language shall be established by the Town Board.

(2) Affordable rental dwelling.

(a) Calculating permissible rent. Maximum monthly rent, including utilities (heat, hot water and electric), shall be set by local law or resolution and updated annually by the Town Board. Rent for an affordable dwelling shall include an estimated cost for utilities and shall not exceed thirty (30) percent of the maximum family income of an income-eligible household earning sixty (60) percent of the Town of Carmel median family income adjusted for bedroom size, using a standard of one-and-one-half (1.5) persons per bedroom. Maximum rent shall be set in such a manner that an income-eligible household will have sufficient income to qualify to rent said dwelling.

(b) Lease terms and renewal. An eligible household for an affordable rental dwelling shall sign a lease for an initial term of one (1) year. As long as the household remains eligible and has complied with the terms of the lease, the household shall be offered a two (2) year renewal thereafter. Adequate proof of household income shall be provided to the Town Board or its designee. If at the time of renewal, the household's income exceeds the maximum income limit established by the Town Board, such household shall be offered a market-rate rental dwelling in the development if available. If no such market-rate rental is available, the household may renew the lease for one (1) more year, subject to the condition that should a market-rate dwelling become available, the household shall be required to move to said market-rate rental dwelling. At the end of the lease for such additional year, the household shall have no further right to reside in the affordable rental dwelling. At that time, the landlord shall have the option of increasing the rent to the prevailing market rate, provided that the landlord shall make a comparable rental unit available to another eligible household at the restricted affordable housing rental rate.

(c) Town Board review. All lease terms shall be reviewed and approved periodically by the Town Board.

H. Applicant eligibility.

(1) Income eligibility. For "for sale" dwellings, a household shall be determined to be income-eligible where its annual family income does not exceed eighty (80) percent of the median family income for the Town of Carmel. Median family income will be calculated using the most recent estimate of median family income reported by the U.S. Census Bureau and adjusted on an annual basis to account for inflation or deflation, as the case may be, until the median family income is updated in the next U.S. Census Bureau survey. The median family income level for Carmel will be adjusted using the Consumer Price Index (CPI) for All Urban Consumers for Putnam County, published by the U.S. Bureau of Labor Statistics, and adjusted based on family size using the U.S. Department of Housing and Urban Development published family size adjustment data. For rental dwellings, a family shall be determined to be income-eligible where its annual family income does not exceed sixty (60) percent of the median family income for the Town of Carmel for a family of four (4), and calculated annually as set forth above for "for sale" dwellings. The Town Board may establish by local law or resolution additional standards to ensure income eligibility.

(2) Selection priority. Once an applicant is determined to be eligible to participate in the affordable housing program based on applicable income levels, preference will be given to applicants on the basis of the following factors. An "applicant" shall be defined to include any and all family members eighteen (18) years of age and older who will occupy the affordable housing dwelling as a primary residence. An applicant seeking preference based on voluntary service must provide an affidavit from an authorized person within such organization attesting to the applicant's length of voluntary service or employment. The Town Board, by local law or resolution, may establish a point system to prioritize households that fall within the following categories:

(a) Volunteer Fire Department or Ambulance Corps members serving the Town of Carmel, with a minimum of six (6) months of consecutive active service.
(b) Paid emergency service personnel serving the Town of Carmel, including police, fire and emergency medical services, with a minimum of six (6) months of employment.
(c) Town of Carmel full-time municipal employees, with minimum of six (6) months of employment.
(d) School district employees for any schools that provide education services to students who live in Carmel, with a minimum of six (6) months of employment.
(e) Veterans of the United States Armed Forces, honorably discharged.
(f) Persons employed in the Town of Carmel.

(g) Resident of the Town of Carmel who have lived in Carmel for at least three (3) years.
(h) Former residents of the Town of Carmel who are able to document that they resided in the Town for at least three (3) years.
(i) Putnam County residents for at least three (3) years, not residing in Carmel.
(j) All income-eligible households not set forth above.

(3) Noneligible applicants. In the event that there are no eligible applicants for affordable dwellings by application of the selection criteria, the Town Board may allow, by resolution, an affordable dwelling to be rented by the owner on a temporary basis at market rate.

I. Administration. The Town Board of Carmel shall administer this affordable housing program. The Town Board may delegate its responsibilities to an Affordable Housing Committee. The Town Board may also hire staff or contract with Putnam County or a qualified not-for-profit organization, governmental agency, or private consultant to administer all or a portion of the affordable housing program under the direction and oversight of the Town Board or an Affordable Housing Committee. The responsibilities and duties of the Town Board shall include, but shall not necessarily be limited to, the following:

(1) Review and approve an affordable housing application.

(2) Maintain eligibility priority list, annually certify and recertify applicants.

(3) Establish annual maximum income limits; rental, sale and resale prices.

(4) Maintain list of affordable dwellings in the Town.

(5) Review and approve deed restrictions applicable to an affordable dwelling.

(6) Review and approve the lease terms for an affordable rental dwelling.

(7) Promulgate rules and regulations as necessary.

(8) Such other and additional responsibilities and duties as established by the Town Board by local law or resolution.

§ 156-17 Agricultural operations.

A. Agricultural operations are permitted as a principal use, provided that:

(1) The site size shall be at least two (2) acres.

(2) No building or structure used for any of the above purposes shall be located closer than one hundred (100) feet to any property line. Pens or buildings housing animals or runs shall be located a minimum one hundred fifty (150) feet from any property line.

(3) For purposes of this section, an agricultural building is a structure designed and constructed to house farm equipment, farm implements, poultry, livestock, hay, grain, or other horticultural products. The structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public. An agricultural building shall be set back no less than fifty (50) feet from any property line. Agricultural barns and silos, used for agricultural purposes, shall be exempt from the height requirements of the Zoning chapter. Buildings shall be set back from each other no less than the height of the taller building.

(4) No storage of manure or other odor- or dust-producing substance shall be permitted within two hundred (200) feet of any property line and shall meet applicable regulatory requirements.

B. This section shall not apply to the operation of a private, noncommercial garden or greenhouse accessory to a single-family detached dwelling in which produce is raised for personal use.

C. The keeping of farm animals shall be permitted, provided that said animals are limited to those traditionally found on a farm, such as cows, pigs, horses, sheep, goats, alpacas, llamas, and poultry. Such traditional farm animals shall not be considered household pets.

D. Agritourism uses are allowed which are subject to approval as part of any site plan approval.

§ 156-18 Coops and attached runs for chickens.

A. A coop for housing chickens and an attached run shall be permitted as an accessory use to a single-family detached dwelling. The combined square footage of the coop/run area should allow at least four (4) square feet for each chicken being kept in the area. Roosters are prohibited.

B. No coop or run for housing of chickens shall be located on a lot comprised of less than 40,000 square feet of lot area. A lot may only house a maximum of six (6) chickens for every 40,000 square feet of lot area comprising such lot. No lot may house more than eighteen (18) chickens in total.

C. Coops and runs may not be located in any front yard. Coops and runs shall be situated completely in a side or rear yard, and no less than fifteen (15) feet from any side or rear property line.

D. All coops and runs must be kept clean neat and free of debris and be in compliance with all state and local laws regulating animals.

E. All coops and any attached run shall be screened from view at ground level from adjacent lots by installing a fence with a height of four (4) to six (6) fencing, landscaping, or a combination thereof and the screening must be effective and present throughout the year, i.e., evergreen landscaping.

F. All feed shall be kept in rodent-proof containers.

G. All chickens will be contained in coops and runs unless property size is in excess of three (3) acres.

H. Any lot which houses chickens shall be required to submit an application and obtain a permit issued by the Building Inspector and accompanied by a fee in accordance with the Schedule of Fees of the Town of Carmel.

I. Penalties for offenses.

(1) Any complaint received by the Building Department or Police Department pursuant to this chapter pertaining to the cleanliness or sanitary condition of the run/coop may be referred to the Putnam County SPCA for investigation and who is hereby empowered to enforce any and all violations of this code.

(2) Any person or entity that shall violate any of the provisions of this section shall be guilty of a violation and shall be punished as follows:

(a) For a first offense: by a fine not to exceed $50.

(b) For a second offense: by a fine not to exceed $100.

(c) For a third offense or any subsequent offenses: by a fine not to exceed $200 or removal of chickens, coop, and run from said premises, or by both such fine and cessation of use.

(d) Each violation of any provision of this section and each week that each such violation shall continue shall be deemed to be a separate and distinct offense.

(e) In addition to the above-provided penalties and punishment, the Town may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this section.

§ 156-19 Fences and walls; storage sheds.

A. Fences and walls.

(1) Fences or walls shall be permitted, provided that no fence or wall shall exceed four (4) feet in height in any front yard or in that portion of any side yard in front of the building line or six (6) feet in height in any rear yard or side yard behind the building line. Hedges, plantings and other

"living" fences shall be deemed "fences" if placed on the site for such purpose.

(2) Height. Fence height shall be measured from the natural grade along the base thereof. Where a fence is installed on top of a berm or retaining wall, the height shall be deemed to include the height of the underlying berm or wall. No fence shall exceed six (6) feet in height, except where located in a front yard, said fence shall not exceed four (4) feet in height. Fences shall be provided with a gate or other means of access to the enclosed space for emergency purposes. Where a wall exceeds six (6) feet in height, same shall be designed by a structural engineer to the satisfaction of the Town Engineer.

(3) Separation requirements. The minimum distance between a fence and a shared lot line shall be eighteen (18) inches unless it is established to the satisfaction of the Building Department that the fence is intended to be a common fence. In the case of a common fence, the Building Department may require proof of a recorded agreement between the contiguous lot owners to ensure future maintenance and repair of the common fence.

(4) Prohibited materials. No person shall be permitted to erect or cause to be erected any barbwire, razor, chain link except with closed loop at the top, electrically charged, short-pointed metal, poultry, turkey wire, or any similar type fence. No fence or wall shall be erected which is embedded with or made of pieces of glass, sharpened metal or sharp or otherwise hazardous material. A chain link fence shall not be permitted within any front yard. Tarpaulin, canvas, cardboard and other impermanent materials are prohibited fence materials.

(5) Decorative side. When a fence is installed, the finished side of such fence shall face the adjacent property, including Town property and/or street. No supports, posts or bracing shall be placed on the side of the fence that faces any abutting lot, street, road or public right-of-way. No fence shall project beyond the property line on which it is installed.

(6) Corner lot exception. The Building Inspector may allow a corner lot to have a fence within one (1) front yard. In said yard, it shall be installed at the required yard setback line.

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

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

B. Small storage shed setbacks. The minimum required yard dimensions for such accessory use shall be front: forty (40) feet; side: ten (10) feet; and rear: ten (10) feet. The maximum permitted height shall be fourteen (14) feet.

§ 156-20 Farm stand.

A farm stand is permitted as an accessory use and upon issuance of a permit by the Building Inspector, provided that:

A. The farm stand shall sell only those products grown or made on the premises to which it is accessory.

B. The total gross floor area of a farm stand shall not exceed two hundred (200) square feet, and its height shall not exceed ten (10) feet.

C. The applicant shall demonstrate to the satisfaction of the Building Inspector that there is sufficient off-street parking to serve the farm stand and that it can be located in such a manner that there is adequate sight distance to permit safe ingress and egress. The Building Inspector may require that the parking area be permanently improved and shall be so located and arranged that vehicles will not be required to reverse onto any road.

§ 156-21 Outdoor dining and sidewalk cafes.

A. Site plan approval and building permit required. Notwithstanding any inconsistent provision contained in Chapter **128**, Streets and Sidewalks, outdoor cafes for the sale to the public of food and beverages, excluding alcoholic beverages and outdoor dining, shall be allowed accessory to a restaurant, provided that site plan approval is obtained from the Town of Carmel Planning Board and a permit is issued by the Building Inspector.

B. Permit application. An application shall be submitted to the Building Department indicating all information required by it in reference to the issuance of the permit and shall be signed by the owner of the property and the permittee if that entity is different than the owner of the property.

C. Standards for a sidewalk cafe. A permit for a sidewalk cafe may be issued only to the owner or the tenant of a building (the permittee) occupied and used for the sale of cooked and prepared food, except fast-food restaurants, in a zoning district permitting such use and within the public sidewalk adjacent thereto, provided that the following requirements are met:

(1) The sidewalk abutting the property, from property line to the curbline, must not be less than fifteen (15) feet in width.

(2) Said use shall be at least fifty (50) feet from any residential lot in a residentially zoned district.

(3) The area to be used for the sidewalk cafe must not encroach onto the sidewalk more than ten (10) feet from the property line abutting the sidewalk and must not extend beyond the extension of the side property lines onto the sidewalk. The Planning Board may require that a barrier to traffic movements be provided.

(4) No permanent structures may be affixed to the sidewalk area used for the cafe or affixed to the building abutting the area for purposes of the cafe, and the area may be occupied only by chairs, tables, benches, umbrellas and planters for the convenience of the patrons to be served in such area. Planters shall be so arranged as to enclose the dining area.

(5) A clear unoccupied and unobstructed space must be provided, not less than three (3) feet in width, from all entrances of the building abutting the sidewalk to the unoccupied portion of the public sidewalk.

(6) Neither outdoor lighting nor live or mechanical music may be used on or for the cafe area, except that in such cases where street lighting is insufficient to illuminate the dining area so that a hazard to those traveling the sidewalk may be created, the Planning Board shall direct and the applicant shall provide such lighting for nighttime hours. The Planning Board, as a condition of approval, may limit the time period within which the sidewalk café may operate.

(7) General comprehensive liability insurance naming the applicant and the Town of Carmel, its officers, agents and employees as named insureds must be provided, with limits of $25,000/$50,000 for property damage and $500,000/$1,000,000 for personal injury, effective for the duration of the permit.

D. Standards for outdoor dining. A permit for outdoor dining may only be issued to the owner or the tenant of a building occupied and used for the sale of cooked and prepared food, except fast-food restaurants, in a zoning district permitting such use, provided that the following requirements are met

(1) Outdoor dining in conjunction with any bar or nightclub is specifically prohibited.

(2) Said use shall be at least fifty (50) feet from any residential lot in any adjoining residential district.

(3) The Town of Carmel Planning Board may prohibit or limit the hours of operation of any activities which could cause an adverse impact on adjacent or nearby residential properties, such as unreasonable noise emanating from the outdoor dining area.

(4) No exterior lighting shall be permitted which would cause illumination beyond the boundaries of the property on which it is located. Hours of lighting shall be as limited by the Planning Board.

(5) Off-street parking spaces shall be provided as required for restaurants in § **156-43** of this chapter.

E. Fees and deposits. The fee for each permit shall be as set by the Town Board in the annual user fee schedule. Fees are payable upon the issuance of the permit. The sum of five hundred dollars ($500) shall be deposited, upon the issuance of the permit, to guarantee compliance with the terms of this chapter and the removal of such items as may be placed upon the public sidewalk, upon the expiration date of the permit.

F. Violation. In the event that the permittee violates any of the provisions of this chapter, the Town Board may terminate the permit, after a hearing at which the permittee may be heard. Notice of the violation shall be provided by certified mail, mailed to the current address of the permittee, at least five (5) days prior to the hearing.

G. Failure of permittee to comply. In the event that the permittee fails to remove any items placed upon the public sidewalk, and upon the expiration of the permit or for any violation issued, the Town Board may cause such items to be removed, the cost of which shall be paid for by the deposit provided by the permits in issuance of the permit, as well as any additional cost for the removal and storage of any items of the permittee. In the event that the permittee should fail to pay the cost of storage and any excess cost of removal within ninety (90) days after storage, the Town Board may sell the items at public auction, and the Town of Carmel shall be reimbursed for all costs of said storage and removal. Should there be any surplus funds from the sale of said items, the surplus funds shall be reimbursed to the permittee.

§ 156-22 Private stables.

Private stables shall be permitted as an accessory use, provided that they are on a lot no smaller than three (3) acres plus an additional one-half (1/2) acre per each additional horse. No less than 20,000 square feet shall be devoted to and securely fenced for the first horse, with an additional 10,000 square feet set aside and securely fenced for each additional horse, with a limit of five (5) horses, and provided that there shall be no dwelling units in the same building in which horses are housed. The buildings in which horses are to be stabled shall be designed to provide adequate ventilation, light and drainage.

§ 156-23 Private swimming pools; tennis courts; pool houses.

Private swimming pools, pool houses, and tennis courts for use by the residents and their guests on the premises shall be permitted, provided that:

A. Said facilities and all appurtenances thereto shall not be located in the front yard of the lot or within ten (10) feet of any property line.

B. All private swimming pools shall be fully enclosed by a fence or wall in compliance with the New York State Building Code.

C. A fence around a tennis court shall not exceed ten (10) feet in height. Said fence must be an "open air" fence and shall not be opaque.

D. A pool house shall not contain bedrooms or be designed so as to be a dwelling.

E. A building permit shall be required for the installation of said facilities.

§ 156-24 Temporary trailers; tents.

A. Trailers. In the event of an emergency (fire, flood, etc.) which renders a building uninhabitable, a

temporary permit for use of a temporary trailer may be issued by the Building Inspector for not more than ninety (90) days to allow for temporary storage and/or short-term habitation by the owner of the lot on which the trailer is located until such time that the on-site building can be occupied or a new building is constructed to replace it. Said permit may be renewed for an additional ninety (90) days by the Building Inspector. All necessary approvals from the Putnam County Department of Health and/or the Town of Carmel must be obtained for water and sanitary connections. No certificate of occupancy for a replacement or reconstructed building shall be issued prior to the temporary trailer being removed.

B. Tents. The installation or maintenance of a temporary tent is allowed in accordance with the following:

(1) In a residential zoning district, one (1) tent or similar temporary structure may be installed on a residential property for private, non-commercial use by the property owner for weddings and similar events for a time period not to exceed seventy-two (72) hours upon issuance of a temporary permit from the Building Inspector prior to the event. No more than two (2) temporary permits shall be issued to a property annually. Tents shall not be located in the front yard, or a required side or required rear yard. A fee for the temporary permit shall be paid in accordance with the Town of Carmel Fee Schedule.

(2) Tents in in any zone other than a residential zoning district may be installed upon issuance of a temporary permit from the Building Inspector. The following standards shall apply:

(1) The tent meets all the applicable requirements of the New York State Fire Code and the tent is certified as meeting the California Flame Retardant Fire Safety Standards for Fabrics and/or the National Fire Protection Association Flame Resistant Fire Safety Standards for Textiles.

(2) The location and size of the tent use shall be of such character that, in the determination of the Building Inspector, it will be in harmony with the existing development of the district in which it is proposed to be situated and will not be detrimental or obnoxious to adjacent properties in accordance with the zoning classification of such properties, as set forth in this Zoning chapter.

(3) The location and size of the tent, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that, in the determination of the Building Inspector, both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to persons using or passing by the premises or conflict with the normal traffic of the surrounding area.

(4) A tent may be installed for a period of time not exceeding ten (10) days from the date of installation specified in the temporary permit. Temporary permits are limited to no more than four (4) permits per year and only one (1) temporary permit may be issued in a thirty (30) day period.

(5) A fee for the temporary permit shall be paid in accordance with the Town of Carmel Fee Schedule.

(6) The Building Inspector, when issuing such temporary permit, shall collect a security deposit in a form acceptable to the Town to ensure the removal of said tent at the end of the temporary permit. The amount of said deposit shall be in an amount determined by the Town Board and filed in the office of the Town Clerk. Upon the proper removal of the tent by the permit holder, in accordance with the temporary permit, the Town shall refund said security deposit. If the permit holder fails to remove the tent at the expiration of the temporary permit, the Building Inspector is authorized to have the tent removed and to charge the cost of said removal plus an administrative fee against the security deposit.

(3) Exemption. A temporary tent not covering more than one hundred forty-four (144) square feet of lot area and used as a cemetery canopy or a house of worship canopy or used for recreational purposes shall be permitted and shall be exempt from the requirements of this section.

§ 156-25. Solar energy systems; Tier 1 batter storage systems; EV charging stations.

A. Solar energy systems.

(1) Solar energy is a renewable and non-polluting energy resource that reduces fossil fuel emissions and reduces a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated. The use of solar energy systems for the purpose of providing electricity and energy for heating and/or cooling, or any other use needing electric power is a necessary component of the Town of Carmel's adopted comprehensive plan. This section is intended to permit and regulate solar energy systems and equipment, including the efficacy of siting to provide for adequate sunlight and convenience of access; to balance the potential impact on neighboring properties when solar energy systems may be installed near their property, while preserving the ability of property owners to install solar energy systems in accordance with applicable laws and regulations.

(2) The requirements of this section shall apply to all solar energy systems and equipment installed or modified after the effective date of this section. No solar energy system equipment shall be installed, operated or modified except in compliance with this section. The Town may require the establishment of an escrow to reimburse the Town for any review associated with a solar energy system, e.g., structural integrity.

(3) A pre-existing solar energy system for which a valid permit has been issued and complies with all applicable New York State laws, rules and regulations is not required to comply with this section, provided that such systems complied with all applicable laws, rules and regulations when installed.

(4) All solar energy system installations must be performed by a solar electric installer credentialed by NYSERDA or successor agency.

(5) Prior to operation, electrical connections must be inspected by the Building Inspector and by an electrical inspector acceptable to the Town. Any connection to a public utility grid must meet all applicable Town, State, federal and public utility laws, rules and regulations.

(6) All solar energy systems shall be maintained in safe and good working order.

(7) All solar energy systems shall comply with all applicable New York Uniform Fire Prevention and Building Code and Energy Code standards. The Building Inspector and/or the Planning Board, in their discretion, may refer the system to the applicable fire department for comment.

(8) If solar storage batteries are included as part of the system, they must be placed in secure containers or enclosures meeting the requirements of the New York State Building Code when in use, and when no longer used, such batteries shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations. Nothing herein is intended to permit a Tier 2 battery energy system which is prohibited in the Town of Carmel.

(9) All solar energy systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. The markings shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated. If any of the standards for markings in this subsection are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code and Energy Code, the more stringent provisions shall apply.

(10) All solar panels and equipment shall be designed and sited so as to not reflect glare onto other properties, public or private roads, rights-of-way, or aircrafts in flight; and shall not interfere with traffic or create a safety hazard.

(11) Prior to issuance of any permit for a solar energy system, the applicant shall submit to the Town Building Department a letter stating that the issuance of said permit shall not and does not create in the property owner, or its successors and assigns in title, or create in the property itself:

(a) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or neighboring property or the growth of any trees or vegetation on adjoining or neighboring property; or

(b) The right to restrict or prohibit development or the growth of any trees or vegetation on adjoining or neighboring property.

(12) Roof-mounted solar energy systems.

(a) A roof-mounted solar energy system may be mounted on any legal principal or accessory building or structure, subject to the Building Inspector and structural and/or Town Engineer's review of the structures for structural integrity. Roof-mounted solar energy systems are not subject to site plan review and approval by the Planning Board.

(b) A roof-mounted solar energy system is permitted to serve only the building(s) or structure(s) on the lot upon which the system is located except that a solar energy system that is connected to the utility grid may push back excess electricity back into said grid.

(c) The applicant shall file a New York State Unified Solar Permit (USP) application with the Town Building Department and pay all fees for review and inspections to obtain a building permit.

(d) Solar panels facing the front yard must be mounted at the same angle as the roof's surface, with a maximum distance of eighteen (18) inches between the roof and the highest edge of the panels.

(e) Roof-mounted solar panels which are flush-mounted shall not be included in the height of the building, nor subject to height limitations governing principal or accessory buildings or structures to which it is mounted, if, in the opinion of the Building Inspector, after consultation with a structural and/or the Town Engineer, such panels are installed no more than a height reasonably necessary to accomplish the intended purpose.

(f) A suitable perimeter area around the edge of the roof shall be provided, no less than a minimum of eighteen (18) inches from the edge of the roof, except that along one side of the roof panels shall be set back three (3) feet for emergency access.

(13) Ground-mounted solar energy system.

(a) A ground-mounted solar energy system is permitted to serve only the building(s) or structure(s) on the lot upon which the system is located except that a solar energy system that is connected to the utility grid may push back excess electricity back into said grid. Site plan review and approval by the Planning Board is required except any ground-mounted solar energy system accessory to a single-family detached, single-family semi-attached, or two-family dwelling is only subject to review and approved of the Building Inspector.

(b) A ground-mounted solar energy system shall not be placed in any front yard, except the Planning Board, in its discretion, may allow a ground-mounted system where it is set back a minimum distance of one hundred (100) feet and is totally shielded from public view by year round screening. A ground-mounted solar energy system shall be set back at least twenty-five (25) feet from any rear or side lot line.

(c) The height of ground-mounted solar panels and mounts shall not exceed twelve (12) feet when oriented at a maximum tilt.

(d) The ground-mounted solar energy system and related equipment shall be substantially screened from view from adjoining and neighboring properties and public and private roadways architectural features, earth berms, landscaping or other screening which will harmonize with the character of the property and surrounding area. If landscape screening is proposed, a landscape design, signed and stamped by a licensed landscape architect shall be submitted with all solar system site plan applications. Such screening shall be designed and installed so as not to substantially interfere with normal operation of the solar panels. The Building Inspector may refer the application to the Planning Board who shall provide advisory comments on any screening and landscaping which may be required to minimize visibility of the ground mounted system from adjoining residential properties.

(e) Ground-mounted solar energy system equipment shall not be sited within any required buffer area.

(f) Lot coverage limitations. The total surface area of all solar panels on a lot shall not exceed the area of the ground covered by the principal building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches and attached garages. The area beneath all solar panels shall be included in calculating maximum permitted lot coverage limitations. If the solar panels are mounted above an existing impervious surface, they shall not be calculated as part of the lot coverage limitations for the applicable zoning district.

(g) The area beneath solar panels shall not be used for storage of any equipment or material.

(h) The applicant, property owner, system owner and system operator must agree, in writing satisfactory to the Town Attorney, to remove the solar energy system and all associated equipment and structures, if the solar energy system ceases to be used for its intended purpose for twelve (12) consecutive months. Removal of such unused system, equipment and structures shall be completed within six (6) months thereafter.

(14) Canopy solar energy system. For purposes of this Zoning chapter, a canopy solar energy system is a ground mounted system which is installed above parking lots accessory to nonresidential uses. Any canopy system shall be subject to Planning Board site plan review and approval. The following shall apply:

(a) A canopy system shall not be permitted accessory to any use which requires a parking area with no less than fifty (50) parking spaces within a contiguous area. A canopy system shall not be located in any required yard nor closer than fifty (50) feet to any lot line.

(b) The maximum height of the canopy system shall not exceed twenty (20) feet and shall be the maximum necessary to provide safe clearance of vehicles, whichever is the lesser.

(c) A structural engineering report certified by a New York State licensed professional engineer shall be submitted that demonstrates the structure can meet wind and snow loads. The length of the canopy shall be equal to the length of the parking spaces the structure is

covering, plus an additional length, no more than two (2) feet, to allow for ice and snow to slough from the canopy without falling on vehicles.

(d) All equipment, inverters, and other appurtenances accessory to the canopy shall be provided in a landscape island and screened from view.

(e) The Planning Board shall have architectural review of all canopies, which shall determine the colors and materials of any piers and canopy.

B. Tier 1 battery energy system.

(1) Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts.

(2) A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

(3) All battery energy storage systems, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Carmel Code.

(4) System certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

(a) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications);

(b) UL 1642 (Standard for Lithium Batteries);

(c) UL 1741 or UL 62109 (Inverters and Power Converters);

(d) Certified under the applicable electrical, building, and fire prevention codes as required.

(e) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

(5) Site access. A Tier 1 battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access for maintenance and in the event of an emergency shall be maintained, including snow removal at a location acceptable to the Building Inspector.

(6) Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

C. Electrical vehicle charging stations.

(1) Level 1 and Level 2 charging stations are permitted in any zoning district, when accessory to a principal use. Level 2 charging stations shall be subject to building permit approval.

(2) Level 3, or DC fast charge, charging stations are permitted accessory to a principal use in any mixed use or nonresidential zoning district. Installation thereof shall be subject to building permit approval.

(3) Standards.

(a) Electric vehicle parking and charging stations shall be equal to parking space size. The installation of electric vehicle supply equipment shall not reduce the electric vehicle parking space length to below off-street parking space size and standards in this chapter.

(b) Installation of EVSE shall meet National Electrical Code Article 625, as may be updated, and New York State Electrical Code as applicable.

(c) Charging station outlets and connectors shall be no less than thirty-six (36) inches and no higher than forty-eight (48) inches from the surface where mounted.

(d) Adequate electric vehicle 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 twenty-four (24) inches from the face of the curb.

(e) Adequate site lighting should be provided unless charging is for daytime purposes only.

(f) 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 electric vehicle charging station.

(g) When EVSE is placed in a sidewalk or adjacent to a walkway, it shall not interfere with the minimum pedestrian clearance widths as defined in Chapter 11 of the New York State Building Code.

(h) Cords, cables, and connector equipment shall not extend across the path of travel within a sidewalk or walkway.

(i) The Building Inspector may consult with the local fire department with regard to the design and installation of the equipment.

(4) Installation of a Level 2 or Level 3 charging station shall require a building permit and shall be accompanied by a fee in accordance with the Town of Carmel Fee Schedule.

§ 156-26. Shoreline activities; piers and docks.

A. Purpose and applicability. The purposes of this section are as follows:

(1) to protect the aesthetic beauty of the waterbodies and the shorelines within the Town of Carmel;

(2) to maintain safe, healthful conditions and to prevent and control water pollution and soil erosion and sedimentation within said waters;

(3) to control building sites and the placement of structures and to preserve shore cover which filters runoff from developed sites. The use of land and water, the size, type and location of structures on lots, the installation of waste disposal facilities, the filling, grading, and dredging of any land and the cutting of shoreline vegetation shall be in full compliance with this section, other provisions of this chapter and other applicable laws, rules and regulations; and

(4) to minimize hazards within waters and promote public safety.

B. Areas to be regulated. It is within the Town of Carmel's jurisdiction to regulate waters and lands, including underwater lands, owned by the Town of Carmel, and land and waters over private land, including private underwater lands, that are within the Town of Carmel. Nothing herein is intended to regulate structures that are affixed directly to or installed on or over underwater lands or waters owned by the State of New York or City of New York. Areas regulated by this section shall include all the lands and waters in the Town of Carmel which are located:

(1) Within fifty (50) feet of the mean high-water mark of lakes and ponds.

(2) Within fifty (50) feet of the mean high-water mark of rivers or streams.

C. More restrictive measures shall apply. Where these standards are in conflict with those promulgated by the NYSDEC or NYCDEP, the more restrictive shall prevail.

D. Other approvals required. An Applicant for any development activity or land disturbance which is commenced within the regulated area shall be responsible for obtaining all other applicable reviews, licenses, permits and approvals from all applicable agencies, which may include but not be limited to the following:

(a) NYDEC Protection of Waters permit;

(b) NYSDEC Freshwater Wetlands permit;

(c) NYSDEC Floating Objects permit;

(d) U.S. Army Corps of Engineer permits; and/or

(e) NYS Office of General Services licenses and/or permits for activities occurring on underwater lands or waters of the State of New York.

(f) NYCDEP Permit for activities occurring on underwater lands or waters of the City of New York.

The Building Inspector shall not issue any permit for any activities or improvements affixed to lands or waters regulated by this section until all permits and approvals are obtained for that activity.

E. Activities subject to building permit application. All docks, piers, wharves, boat slips, fences, walls and grading activities or combination thereof within the regulated area, that affect one hundred (100) square feet of area or less, shall require a building permit from the Building Inspector and shall be regulated as set forth herein. For purposes of this section, docks, piers, wharves, boat slips, and boathouses are collectively referred to as waterfront structures.

F. Site plan review. Except as provided in subsection E above, all other land use and development activities in the regulated area that disturb a larger area shall be subject to site plan review and approval by the Planning Board.

G. General standards. In addition to the standards set forth throughout this Zoning chapter, the following standards shall apply within the regulated area:

(1) Construction shall be carried out in such a manner so as to minimize the erosion caused by such activity. Construction and excavation activities shall be carried out in the shortest period of time possible.

(2) Shoreline areas, excepting beaches, shall never be exposed (unvegetated) for longer than the time period designated by the Building Inspector and when exposed shall adequately be protected from erosion.

(3) All structures, except waterfront structures, that are within twenty-five (25) feet of the mean high-water mark of any water body regulated herein, shall be screened by vegetation or landscaped in such a way so that the view of the structures from the water is filtered and the visual impact minimized.

(4) Filling. There shall be no fill placed in the regulated area, except as associated with shoreline protective structures or beach replenishment or other alternatives found to be beneficial to existing shoreline conditions, water quality or clarity. Any fill shall be protected against erosion through appropriate sediment control measures.

(5) All parking, loading or service areas should be constructed of permeable materials.

(6) Lighting devices shall be oriented so as to minimize disturbances on surrounding properties and shall be the minimum necessary for safety. Lighting shall be in accordance with lighting standards set forth in this Zoning chapter.

(7) For residential uses, the minimum shoreline lot width required to be able to affix a waterfront structure within the regulated area shall be seventy-five (75) feet. For commercial uses, e.g., marinas and restaurants: one hundred fifty (150) feet.

(8) Boathouses and covered dockage areas are buildings and shall not exceed a height of ten (10) feet above high tide, nor shall the aggregate floor area of all such structures exceed five hundred (500) square feet, whether in the water or on land.

(9) The maximum length that any waterfront structure may extend into the water shall be twenty-five (25) beyond the high tide line, and a pier, dock or slip shall not exceed six (6) feet in width. A waterfront structure shall not provide dockage to more than two (2) watercraft, except as elsewhere regulated herein. Any waterfront structure, the combination of which exceeds twenty-five (25) feet, shall be reviewed and approved by the Planning Board, which shall find that said structure does not pose a hazard to navigation, or impede access to other waterfront properties.

(10) No waterfront structure shall extend closer than fifteen (15) feet to any adjoining property line. The property line shall be measured by the extension of an imaginary line drawn perpendicular to a tangent of the shoreline at a place where the property line and the shoreline intersect.

(11) A buffer strip twenty (20) feet deep of natural or planted vegetation shall be maintained, except to allow for necessary access points as determined by the Planning Board. Where beaches are proposed, an adequate buffer behind the beach shall be established and shall be of a depth determined by the Planning Board. In addition, vegetative buffers shall be maintained so as to effectively screen parking areas and buildings from the water.

(12) Waterfront structures shall be designed and configured so that they do not interfere with navigation or the rights of adjoining owners and the public to use the waterbody, do not harmfully affect the environment or estuarine areas and are appropriately lit to provide adequate warning to boaters, but not to produce glare. The underwater portions of docks, including piles, shall only be composed of materials which are chemically inert and will have no adverse effect on the environment or water quality. The configuration of a waterfront structure shall be determined on a case-by-case basis considering the location, limiting natural features of the sites, demonstrated need and compliance with other state and federal laws.

(13) The Town Engineer as MS4 Coordinator, Building Inspector, Planning Board may require the installation of stormwater control devices to ensure that any construction within the regulated area does not have a negative impact on water quality.

(14) All portable toilets visible from the waterfront shall be screened from view by use of lattice, fencing, year round vegetative screening or similar design.

H. Ownership required.

(1) Except for commercial marinas, a waterfront structure shall be limited to use by watercraft of the property owner/occupant and shall not be used to store watercraft owned, used, rented or leased by persons that are not residents of the lot on which said docks and piers are situated.

(2) No waterfront structure accessory to a residential use shall be used, rented or offered for a fee, on a one time or continuing basis, for the storage or mooring of watercraft. The use, rental or offering of any waterfront structure other than the owner occupancy shall be deemed a commercial marina and shall only be allowed where said uses are allowed by this Zoning chapter.

(3) Homeowners Association. Any property owned by a Homeowners Association which proposes a waterfront structure or access through the regulated area shall obtain site plan approval from the Planning Board. Use of lands shall only be by individuals that are a member of the homeowners association and their guests, except nothing herein shall permit a watercraft and dock, pier or similar structure to moor watercraft for any craft other than for a homeowner. As part of site plan approval, the homeowners association shall maintain a list of all property owners and which are allowed access through such homeowner association lands.

(4) Restaurants. Waterfront structures are allowed accessory to a restaurant which maintains frontage on a waterbody only where said structures are used as an alternative to landside parking. Waterfront structures which are used, rented or leased on a one time, seasonal, or continuing basis and unrelated to the restaurant use shall be deemed a marina, and regulated in accordance with the standards for that use.

(5) For purposes of determining ownership, watercraft shall be registered in the name of the owner of the property on which the watercraft is docked or obtains water access.

I. Docks and piers as a principal use. Vacant properties which are used solely for the construction of a waterfront structure shall be allowed no more than one (1) waterfront structure which shall not be longer than twenty-five (25) feet and shall not be used by more than two (2) watercraft. Any structure which provides access to more than two (2) watercraft shall be deemed a marina and regulated in accordance with the standards for that use.

J. Pre-existing waterfront structures. Docks, piers, slips and similar waterfront structures in existence on or before January 1, 2022, are permitted to continue, provided the following is determined by the Building Inspector:

(1) Any preexisting structure which exceeds twenty-five (25) feet shall not be further expanded in any manner, including the addition of slips, and no grandfathered dock, pier or other waterfront structure shall be longer than fifty (50) feet.

(2) The preexisting structure shall provide access to no more than two (2) watercraft.

(3) For properties where the waterfront structure represents the principal building or use of the

site, no more than a total of two watercraft may be docked at the site, regardless of whether same are registered or owned by the property owner.

K. Waivers. Where the docks, piers, and other activities are associated with a water dependent use and which structures are integral to a use allowed in the applicable zoning district, e.g., a marina, the Planning Board, in its discretion, may waive the above requirements, provide it finds that the waivers are no less protective of the purposes set forth herein.

§ 156-27 through 29. Reserved.

Article IV Special District Regulations

§ 156-30 Economic Development Floating Zone.

A. Purpose. The Economic Development ("ED") floating zoning district is an unmapped floating zone that is established only upon an applicant's submission of a zoning petition and approval of the petition by the Carmel Town Board. Approval of a zoning petition and Concept Master Site Plan by the Town Board allows an applicant to submit a site-specific site plan application for a nonresidential use in compliance with the standards set forth in this section and a Final Concept Master Site Plan approved by the Town Board. The purpose of the district is to allow nonresidential uses that will improve and enhance the Town's economy by bringing visitors into the community, generating employment opportunities, increasing the Town's tax ratable base, complementing, and not competing with, the commercial uses in the hamlets of the Town, and not impacting the Town's residential neighborhoods or environs. The ED zone may allow one or more nonresidential uses as part of the overall development.

B. Criteria for approval of the ED zone. In determining whether to approve an ED floating zone, the Town Board shall consider the following criteria and determine to what extent the zone petition meets these criteria and whether the proposed use, on balance, benefits the Town of Carmel:

(1) Demonstrate that the use will create employment opportunities for area residents and enhance the Town's tax ratable base;

(2) Represent a use which will not compete with the commercial uses and services available within the hamlets, as determined at the discretion of the Town Board;

(3) Promotes and is designed and built using high quality materials and an architectural and building design consistent with that of Carmel;

(4) Promotes energy-saving and building techniques, like those promulgated by the U.S. Green Building Council;

(5) Can be served adequately by the Town and other community facilities and services that serve Carmel, including ambulance, fire, police, highway, and other services, and will not place undue demand on same, and provides for the construction or improvement of public facilities, services or utilities where necessary.

(6) Can be accommodated in a manner wherein the traffic generated by the use will not negatively impact any roads within the Town of Carmel;

(7) Encourages protection of historical buildings and sites, sensitive archaeological areas and other important cultural resources;

(8) Encourages the conservation and enhancement of the visual quality of Carmel;

(9) Minimizes flooding and erosion by protecting the functions of wetlands, water bodies, water courses, flood plains, areas of high water table, steep slopes, erosion hazard areas and natural vegetative cover; and

(10) Provides special community benefits such as open space protection, public access to park land, hiking trails, biking trails and recreational resources.

C. Minimum ED Zoning District Standards. The following minimum standards shall be met in order to submit a zone petition to the Town Board:

(1) Location. The proposed ED zone may be applied to properties zoned OSR, PRD, or BP, as those zones are shown on the Town of Carmel zoning map.

(2) Minimum Size. The minimum size of the tract, or combination of tracts, to be rezoned to ED shall be a minimum of twenty (20) gross acres and in single ownership. Said tract(s) shall be contiguous, except that utility and transportation rights-of-way shall be permitted to cross the tract, and still render the tract contiguous. No part of the required acres may be composed of land or property already restricted from development by a conservation easement, deed restriction, or other restriction limiting development. For purposes of these regulations, no portion of said restricted lands may be used in the calculation of open space or for purposes of calculating nonresidential intensity.

(3) Utilities. The proposed development can be served adequately by water and sanitary sewer service.

(4) Uses. An ED zone may allow the following nonresidential uses: professional offices, research and laboratory facilities, light industrial and similar nonresidential uses; and tourism-related uses including dude ranch, commercial stables and riding academies, resort, and other tourist destination uses found acceptable to the Town Board; museum, performing arts venue, conference center, and similar visitor attractions. The uses allowed in the floating zone shall be authorized by the Town Board, which in its discretion, may reject any use it determines does not meet the intent of the zone. The Town Board may consider other uses that meet the criteria for approval not set forth herein which meets the criteria for approval. Uses may be located on one or more lots, requiring site and/or subdivision approval.

D. Procedure. The following procedures shall be followed in the creation of an ED District:

(1) Pre-application meeting. The Applicant shall request a pre-application meeting with the Town Board and Planning Board and its consultants to discuss the proposal. A sketch plan shall be submitted which shall include the information set forth in Article X, Site plan review, of this Zoning chapter. The purpose of this meeting will be to solicit preliminary non-binding comments of the Town Board and Planning Board with regard to the consistency of the ED proposal with the criteria set forth in Subsection B above and to identify any issues that must

be addressed during the review process. In addition to submission of a sketch plan, a narrative indicating how the proposal meets or will be designed to meet the minimum standards set forth in Subsection B above shall be submitted. The foregoing information shall be received by the Town Board and Planning Board and its consultants at least thirty (30) days prior to the pre-application meeting at which the proposal shall be discussed. Subsequent to issuance of the Town's non-binding comments, the Applicant may submit a formal zone petition to the Town Board.

(2) Submission of the zone petition. The applicant shall petition the Town Board for ED zoning in accordance with the procedures set forth in **Article XIII** of this Zoning chapter. The zone petition shall be in a form sufficient to enable the Town Board to evaluate the applicant's proposal and its consistency with the purpose, criteria, minimum standards and general design standards set forth herein. Copies of the ED zone petition shall also be submitted to the Planning Board and its consultants. The ED zone petition shall be accompanied by the following which shall represent the Applicant's ED Concept Master Site Plan:

(a) A written description of the purpose of the ED and to what extent it meets the purposes, and criteria set forth in A and B and the minimum standards set forth in C.

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

(c) A conceptual site plan for the ED showing a proposed ED layout with:

[1] Delineation of the proposed nonresidential lots;

[2] The proposed pedestrian, bicycle and/or vehicular circulation system illustrating how said system connects to a hamlet or may connect to the same in the future. The installation of a pedestrian and trail system is a requirement of the zone;

[3] Delineation and approximate acreage of any protected open space areas and description of the uses, if any, proposed within said areas, together with proposals for the ownership, maintenance and protection of the open space;

[4] Delineation of all proposed uses and a description of ownership and proposed access, whether public or private;

[5] A location map, showing generally the land use and ownership of abutting lands within five hundred (500) feet of the property line;

[6] Description and conceptual design of the water and sewer system to a degree that the Town Engineer may opine on the adequacy of the system. The proposed capacity, ownership and maintenance of said system shall be specifically described;

[7] A location and outline of existing water bodies, streams, marshes and wetlands and their respective classification as determined by the appropriate governmental

regulatory body;

[8] Boundaries of any areas subject to flooding or within a FEMA-mapped 100-year flood plain;

[9] Identification of any other significant natural features as per §156-11.E;

[10] The approximate location and dimensions of proposed principal and accessory buildings on site and the relationship to one another and to other structures in the vicinity. Proposed bulk regulations to guide development of the zone shall be submitted;

[11] Proposed safeguards to be provided to minimize possible detrimental effects of the proposed development on adjacent properties and the neighborhood in general, including proposed plans for landscaping, tree preservation and/or buffering to adjacent properties;

[12] A draft stormwater pollution prevention plan;

[13] Approximate location of lands, if any, proposed to be dedicated to the Town;

[14] Other information, plans and details as may be required by the Town Board to assess whether the ED will result in one or more of the economic benefits set forth in Subsection B, Criteria for Approval of the ED zone;

[15] The Town Board shall have the discretion to modify any of these submission requirements if it determines that the submission is not necessary for the Town Board's evaluation of the proposed ED;

(d) A description and examples of the architectural and green building design features and programs to be incorporated into the development. The submission shall include building elevations and floor plans.

(e) A description as to how the common elements, e.g., open space and recreational resources, are to be owned, operated and maintained.

(f) If the project is to be phased, a proposed phasing plan indicating the approximate phasing of land dedication, site development and infrastructure improvements both on and off site, including the general order of construction and estimated timing of each phase. The Phasing Plan shall also identify the sequence, and timing, for construction of all special community benefits and/or construction or improvement of public facilities, services and/or utilities. The Town Board, at its discretion, may require that the ED be phased.

(g) The present ownership of all lands included within the proposed ED zone.

(h) Evidence acceptable to the Town Board to demonstrate the applicant's financial capacity to carry out the project and a description of previous experience with projects of a similar scale and magnitude.

(i) Such other documentation and information as may be required by the Town Board to evaluate the ED zone petition and sketch plan.

(3) SEQRA review. The ED zone petition and Concept Master Site Plan shall not be deemed complete until such time as the Lead Agency issues a Negative SEQRA determination or a Draft Environmental Impact Statement ("DEIS") is accepted by the Lead Agency as complete for purposes of commencing public review. The proposed development of an ED zone shall be designated a Type I action and requires submission of a Full Environmental Assessment Form ("FEAF"). Consistent with the regulations implementing SEQRA, coordinated review shall be conducted. The Lead Agency, based on the facts contained in the EAF, the ED Zone Petition and Concept Master Site Plan, shall determine whether the proposed action may have a significant effect on the environment, requiring issuance of a Positive Declaration and the preparation of a Draft Environmental Impact Statement ("DEIS"). The following information, at a minimum, shall be provided by the applicant as part of the SEQRA review process, and may be incorporated into a DEIS, if submission of same is required:

(a) Maps and narrative illustrating the natural and sensitive environmental features of the site. A narrative shall be provided describing the sensitive environmental features that are being protected and how they have been incorporated into the proposed boundary of the open space area.

(b) A community services/fiscal impact study analyzing the demand that will be placed on community service providers and the costs associated with same. The study shall set forth specific methodology and assumptions upon which it is based. The Lead Agency shall review and consider the estimated community service costs, including municipal and school district capital and operating costs, and the tax revenues to be generated by the development to offset said costs.

(c) A traffic impact study indicating the ability, in terms of geometry and capacity, of the internal and adjacent roadway network to accommodate traffic generated by the proposed development. The traffic study shall identify mitigation measures, as necessary, to ensure adequate and safe traffic flow.

(d) An ecological survey identifying flora and fauna and assessing the type and quality of ecological habitat found on the project site, taking into consideration seasonal variations. Said survey shall summarize the results of on-site field investigations.

(e) Design calculations and preliminary plans illustrating on- and off-site improvements related to the design, construction and installation of a centralized system of wastewater treatment and water supply.

(f) A draft stormwater pollution prevention plan, indicating methods to control stormwater runoff and methods to protect water quality of receiving water bodies.

(g) Such other information and data that the Lead Agency determines necessary for adequate SEQRA review of the proposed action.

(4) Putnam County Planning referral. A petition for an ED zone shall be referred to the County Planning Department in accordance with NYS General Municipal Law.

(5) Public hearing. The Town Board shall hold one (1) or more public hearings as required for a subdivision. The Town Board may, in its discretion, combine the ED zone petition public hearing with other required hearings, and the SEQRA hearings conducted by the Lead Agency.

(6) Planning Board report. Subsequent to the completion of SEQRA, i.e., issuance of a Negative Declaration or issuance of a Findings Statement, but prior to any action taken by the Town Board on the zone petition, the Planning Board shall also render a report with its comments related to its review of the ED and Master Concept Site Plan that should be considered by the Town Board prior to its decision making. Said report shall be issued within forty-five (45) days following completion of the SEQRA process.

(7) Town Board decision. Approval by the Town Board of the ED zoning is a legislative act. The Town Board by resolution and in its sole discretion, may elect to consider, may elect not to consider, or may reject any request for an ED rezoning at any time during the zone petition review process. The Town Board, within sixty-two (62) days after the close of the public hearing or after completion of the SEQRA process by the Lead Agency, whichever is later and including the issuance of SEQRA Findings Statement if applicable, shall make its decision to: (i) approve; (ii) disapprove; or (iii) approve with modifications and/or conditions the ED zone. If the Town Board disapproves the ED zone, it shall set forth its reasons for said determination in a written statement. However, the requirement of a written statement shall not be deemed to impair or affect the legislative nature of the Town Board's decision-making powers. The timeframe within which the Town Board may act may be extended upon mutual consent of the Town Board and the Applicant. Failure to act within the time prescribed shall not result in default approval of the ED zone. If the Town Board approves the ED zone, or approves the ED zone with conditions, it shall, in its decision:

(a) State that it has considered the criteria for decision-making set forth in § 156-30.B and state its finding as to what extent the proposed ED meets these criteria and to what extent the ED, on balance, benefits the Town of Carmel.

(b) Set forth or establish the maximum square footage buildout to be included in the ED zone.

(c) Determine all uses which shall be allowed in the ED zone.

(d) Establish the phasing plan as may be requested by the applicant or required by the Town Board.

(e) Prescribe such bulk regulations which will apply in the ED zone, including an identification of any provisions of the Zoning chapter that shall be superseded.

(f) Establish such other conditions and requirements which the Applicant must adhere to in the development of the ED zone.

(g) All of the above shall be deemed to be, upon approval, or approval with conditions of the ED zone petition, the "ED Final Master Concept Site Plan".

(8) Development agreement. The Town Board, and the Applicant (developer), shall enter into a written agreement, the purpose of which shall be to establish in writing and for the benefit of the parties, the specific parameters of the approval which has been granted by the Town Board and upon which the Applicant may rely in proceeding with its development project.

(9) Filing of documentation. Upon approval of the ED Zone Petition, the Town Zoning Map shall be duly amended by the Town Board. The map amendment shall be filed, as required, with the New York State Department of State, and a copy shall be filed in the Putnam County Clerk's Office. In addition, the ED Final Master Concept Site Plan shall be filed in the Office of the Town Clerk, together with the Zoning Map Amendment and Development Agreement. Where the regulations of the Zoning chapter vary with the standards set forth in the ED Final Concept Plan, the ED Final Master Concept Site Plan shall take precedence.

(10) Planning Board approval. The zoning of the property as an ED zoning district by the Town Board does not create any vested rights in the property owner (applicant). The applicant shall be required, after zoning of the ED zone, to make a complete application for Site Plan and/or Subdivision Approval for some or all of the ED zone. Nothing herein shall limit the applicant's ability to make submission of a site plan and/or subdivision application concurrently with the ED zone amendment. However, until the zone petition is approved, no subdivision plan or site plan application shall be deemed complete and said determination of completeness shall be made only by the Planning Board. The applicant shall pursue diligently preliminary subdivision plan and/or site plan approval. The ED zone shall entitle the applicant to construct the ED development in accordance with the ED Final Master Concept Site Plan, subject to Planning Board site plan and/or subdivision approval. However, any significant changes to building location, sizes, building type, or changes which the Planning Board deems may have the potential to have a significant impact or represents a significant deviation from the plans upon which the ED zone has been established shall be referred to the Town Board for its review. The Town Board shall determine whether said changes require approval of an amendment to the ED Final Master Concept Site Plan. If a preliminary subdivision and/or site plan for either a phase or for the ED zone in its entirety is not submitted within one (1) year of the date the ED rezoning is granted, the rezoning shall become null and void and the land which is the subject of the ED rezoning shall revert to the zoning in effect prior to the ED zone designation. Prior to said one (1) year period, the applicant may request from the Town Board one (1) extension of time for the submission of a plan and shall state in writing the reasons for said extension. The Town Board, in its discretion, may conduct a public hearing and may approve or deny the extension and said extension shall be granted for a time period of no more than one (1)

additional year. In making its site plan and/or subdivision determination, the design standards set forth in Article VIII together with all standards set forth in the Town Board's ED zone and Final Master Concept Site Plan approval shall be applied by the Planning Board.

E. Nonresidential Yield Determination. The maximum nonresidential yield for the ED shall be calculated as follows:

(1) Maximum square footage. A floor area ratio of 0.25 shall be used to determine maximum floor area of all principal and accessory buildings allowed as part of the development.

(2) Lot Coverage. A maximum of forty (40) percent impervious coverage shall be allowed.

(3) Building height. The maximum building height shall be three (3) stories, or forty-five (45) feet.

F. Design standards.

(1) Parking and loading requirements. The minimum off-street parking and loading requirements for any uses or structures in the ED zone shall be established as part of the Final Master Concept Site Plan, taking into consideration the parking requirements of the Zoning chapter.

(2) Pedestrian connection. The Town Board may require pedestrian and trail connections, including a connection to the Putnam Rail Trail.

(3) Design guidelines. The Town Board may require the submission of design guidelines, prepared by a qualified New York licensed architect that shall be approved as part of the ED zone. The design guidelines shall set forth architectural styles and designs to be utilized and landscape guidelines for the development. Building styles shall be defined by a set of standards – massing and proportion, materials, colors, roof-pitch, height, etc. – that encourage superior quality building design. Landscape design guidelines shall encourage use of native species and shall not allow the introduction of invasive species.

(4) Yard requirements. Frontage and yard requirements within an ED zone shall be established as part of the Master Concept Site Plan, and will be dictated by health, fire, safety, function and buffer considerations. With the design guidelines, the applicant shall be required to submit proposed bulk requirements that would apply to lots, if proposed, in the ED zone which shall be subject to Town Board approval.

(5) Roads and driveways. The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to existing and planned streets, topography and public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by said streets. Whether public or private, streets shall conform to all road specifications of the Town, Putnam County Department of Highways and Facilities, and NYSDOT as applicable unless alternative standards are approved by the applicable agency.

(6) Open space. No less than forty (40) percent of the entire tract shall be designed as open space. The following activities are allowed within the open space areas:

(a) Conservation of open land in a natural or managed state (for example, woodland, fallow field, or meadow).

(b) Agricultural uses including pasture.

(c) Equestrian facilities shall be permitted but may not consume more than twenty-five (25) percent of the minimum required Open Space Area.

(d) Greens, commons, picnic areas, gardens, trails, and similar low-impact passive recreational uses, specifically excluding gas-powered motorized off-road vehicles such as all-terrain vehicles and snowmobiles, and other uses similar in character and potential impact as determined by the Town Board.

(e) Active noncommercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than twenty-five (25) percent of the open space area.

(f) Open space shall be permanently protected via conservation easement or deed restriction which is enforceable by the Town of Carmel.

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

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

(9) Signage and lighting. The ED zone shall incorporate decorative sign and lighting design standards which shall regulate said improvements within the ED zone. The Town Board shall give due consideration to the existing standards for signs and lighting set forth in this Zoning chapter.

G. Professional fees. The Applicant for an ED zone shall be required to reimburse the Town for all professional fees incurred by the Town in its review of the zone petition application and in its SEQRA Review of the application, in accordance with the Fee Schedule of the Town of Carmel.

§ 156-31. Design Overlay (D-O).

A. Review authority. All activities regulated by this section shall be reviewed and approved by the Planning Board.

B. The following general objectives will guide the Planning Board in the architectural review of applications in the D-O zoning district:

(1) Street rights-of-way shall be designed in a manner that promotes pedestrian activity and accommodates it safely.

(2) Usable gathering spaces are to be incorporated, which should be in the form of a pocket park or green, enlarged sidewalks for outdoor cafe seating, or similar feature.

(3) It is an objective to minimize paved surfaces such as off-street parking, driveways, and similar spaces by sharing spaces, encouraging on-street parking, and incorporating landscaping into project design.

(4) Principal buildings should be a minimum of two (2) stories, and up to three (3) stories, that are designed architecturally to be consistent with existing historic buildings in the district, or that otherwise draw inspiration from historic period vernacular architecture where they are present, and which promote a pleasing visual environment.

(6) Streetscape is an important design element and shall be promoted through the use of broad sidewalks, street trees, planter strips, street furniture, cafe spaces, and similar features.

(7) A mix of uses is desirable, with residential, commercial, and public spaces all represented in the Town's mixed use hamlets. Preference is for a mix of uses to be achieved within buildings, as well within the overall district, to the extent allowed by the base zoning district.

(8) A variety of architectural styles and patterns are allowed and encouraged for new development to ensure that the overlay district has the appearance of having evolved over time. Development shall preserve and enhance assets of local and regional history.

(9) Access to the waterfront is to be enhanced and encouraged. Viewsheds to the lakes and waterfront on any lot in the D-O zone are to be preserved to the maximum extent.

C. Applications subject to the requirements of the D-O design standards. The following applications made for properties and buildings located within the D-O zone shall be subject to review and approval:

(1) Applications for a building permit for the construction, reconstruction or alteration of any structure or building which exceeds five hundred (500) square feet. The Planning Board shall approve the design prior to the Building Inspector's issuance of a building permit.

(2) Applications for site plan approval, special use permit, and/or subdivision approval. The

Planning Board shall review these applications in accordance with these D-O standards.

D. Procedures. The Planning Board shall act on a project design within sixty-two (62) days of receiving a complete application. A public hearing is not required. For architectural review of an application that also requires subdivision, special use permit or site plan review, the Planning Board shall make its decision within the timeframes established for those applications.

E. Advisory consultants; responsibilities. The Planning Board is hereby authorized and empowered to retain an architect, landscape architect, urban designer or other such design professional as it deems necessary to review applications, which cost shall be reimbursed in accordance with the Town of Carmel Fee Schedule. The Board shall restrict its considerations to a reasonable and professional review of the proposal and plans, leaving full responsibility for the design and development to the applicant.

F. Submission. Upon the filing of a building permit, site plan, special use permit or subdivision application, the Applicant shall submit the information set forth herein, and such information that is deemed necessary to render a decision on the merits of the architectural design of the building or structure. The Planning Board, in its discretion, may waive any of the below submissions where it deems it is unnecessary for review:

(1) Building elevations which express the architectural design of any new building or building alteration, along with information regarding the materials to be used in building construction.

(2) Building permits, renderings, elevations or other information applicable to existing on-site or adjacent buildings, if applicable;

(3) Architectural data, including plans and elevations, full narrative description of materials, color swatches and samples of all exterior materials, including roofing, trim, siding, windows, doors, lighting fixtures, sidewalk and paving materials to be used; gross building area; height, width and depth;

(4) Three-dimensional sketch or rendering illustrating significant aspects of construction and exterior design, when deemed necessary and requested by the Planning Board, at a scale deemed appropriate for review by same;

(5) Any other pertinent details deemed relevant to the review of the application.

G. General review standards. In reviewing a submission, the following shall be considered. The Town of Carmel Comprehensive Plan is to be used as a guide to design intent:

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

(2) The general appropriateness of the exterior design, arrangement, texture and materials proposed to be used.

(3) Where new construction, alterations, repairs or additions are undertaken, they shall be consistent with the architectural style of existing buildings or the architectural style of the surrounding area, if deemed appropriate.

(4) Excessive dissimilarity or inappropriateness in relation to adjoining structures, existing or for which a permit has been issued, in respect to two or more of the following features: gross floor area, building area or height of roof or other significant design features, such as materials or style of architectural design.

(5) Excessive similarity in relation to adjoining structures, existing or for which a permit has been issued, in respect to two or more of the following features of exterior design and appearance: apparently identical front, side or other elevations visible from the street, substantially identical size and arrangement of either doors, windows, porches or other openings or breaks in the elevation facing the street, including reverse arrangement; or other significant identical features of design, such as, but not limited to, material, roof line, height or other design elements.

(6) New structures should be constructed to a height visually compatible with the buildings and environment to which they are visually related.

(7) The gross volume of any new structure should be visually compatible with the buildings and environment to which it is visually related.

(8) In the elevations of a building, the proportion between the width and height of the facades should be visually compatible with the buildings and environment to which they are visually related.

(9) The proportions and relationships between doors and windows in the facades should be visually compatible with the buildings and environment to which they are visually related.

(10) The rhythm of solids to voids, created by building walls and openings in the facade, should be visually compatible with the buildings and environment to which it is visually related. For example, a windowless front floor would not be compatible if all other surrounding buildings have windows on the first floor.

(11) The existing rhythm created by existing building masses and spaces between them should be preserved, insofar as practicable.

(12) The materials and textures used in the facades should be visually compatible with the buildings and environment to which they are visually related. For example, a stucco building would not be compatible if all other surrounding buildings are cedar shake.

(13) Colors and patterns used on the facades should be visually compatible with the buildings and environment to which they are visually related. For example, an orange façade would not be compatible if all other surrounding buildings are tan and blue.

(14) The design of the roof should be visually compatible with the buildings and environment to which it is visually related. For example, a flat roof would not be compatible if all other surrounding buildings have a gable front roof.

(15) The landscape plan should include landscape treatments that are visually compatible with the buildings and environment to which it is visually related. For example, palm trees would not be visually compatible if all surrounding buildings utilized hydrangeas in the front yard.

(16) All facades should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.

(17) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(18) The setback of the buildings from the street or property line and the other yard setbacks should be visually compatible with the buildings and environment to which they are visually related.

(19) Signs should be of a size, scale, style, materials and illumination that are visually compatible with the building to which they relate and should further be visually compatible with the buildings and environment to which they are visually related.

(20) Any of the factors, including aesthetics, which is deemed pertinent.

H. Building design standards.

(1) Architecture. New construction and rehabilitation shall reflect traditional architecture styles found in Carmel in building and roof forms, window proportions, materials, colors and details. Architectural features and windows shall be continued on all sides of the building that are clearly visible from a street or public parking area to avoid visible blank walls, unless waived by the Planning Board.

(2) Corner buildings should incorporate porches and arcades, cupolas or similar architectural features for visual interest.

(3) Facades. Facades, or the exterior walls of buildings, shall be built parallel to the street line and shall define the public space along the sidewalk through the use of consistent setbacks along the street. Where a green or pocket park is proposed adjacent to a street frontage, buildings shall be constructed parallel to same. Structures shall incorporate fascia, canopies, arcades, setbacks, recesses, projections or other design features to compose wall surfaces of 600 square feet or less to avoid large, undifferentiated walls.

(4) Windows. All primary windows, with the exception of ground floor commercial space and small windows such as transom windows, shall be vertical in proportion and in the case of historic buildings, should have multiple panes divided by muntins. Mirrored, reflective, or darkly tinted

glass, all-glass walls, and exterior roll-down security gates shall not be permitted. Ground floor commercial space shall be designed with storefront windows. In general, window area should be at least seventy (70) percent of the ground floor facade.

(5) Awnings. Metal, canvas, and canvas-like awnings are allowed along street frontages and may encroach up to six feet into the required front yard and over the sidewalk beginning at a height no less than seven feet above the sidewalk. Vinyl or aluminum awnings are not permitted.

(6) Primary entrances. The principal pedestrian entrances for the ground floor of any nonresidential use shall directly front to the sidewalk. Principal entries to ground level nonresidential uses shall be highlighted through the use of architectural features such as roofs, door surrounds such as fanlights and transom windows, recessions into the facade or other details that express the importance of the entrance.

(7) Public spaces. Buildings with a building footprint of five thousand (5,000) square feet or more of gross floor area shall provide for public outdoor space that incorporates amenities such as benches, seats, tables, fountains, outdoor cafes, sculptures, and/or interpretive historical markers.

(8) Materials. Vinyl, plastic, aluminum, or sheet metal siding or trim, exposed unfinished concrete blocks, unfinished concrete walls, plywood and similar prefabricated panels, unpainted lumber, synthetic stone, synthetic brick or synthetic stucco are not permitted unless waived by the Planning Board, where the Planning Board determines that alternative materials will meet the design objectives of this district.

(9) Roofs and building stories. Buildings shall have sloped or pitched roofs unless waived by the Planning Board. Where a flat roof is allowed, it shall be articulated with parapets and cornices. Parapets shall be a minimum of forty-two (42) inches in height or as may be otherwise required to satisfactorily conceal mechanical equipment. Larger buildings may be required to have a combination of roof types and pitches to achieve design objectives, e.g., emphasis on verticality of a building's design. Buildings should be no less than two (2) stories with usable floor space on the upper story. The requirement may be waived where it is determined that the proposed use and building design are consistent with the goals and objectives of the overlay district, and the unique nature of the proposed land use dictates one story only, and a shorter building height promotes or preserves public views of important scenic or historic resources, e.g., views of the lakes.

(10) Screening. All mechanical equipment, whether roof- or ground-mounted, shall be screened from adjacent properties and streets in a manner that is compatible with the architectural treatment of the principal building and completely blocks the equipment from view. Refuse containers shall be located to the rear of a site or building and shall be concealed to the extent feasible from public view.

(11) Walls, fences and other enclosures. These structures shall be constructed of natural materials and shall not exceed a height of three (3) feet along any street frontage line. Materials such as

vinyl, fiber cement (hardie board) or other man-made material may be allowed where it is determined allowing such waiver is no less protective of the aesthetic character of the overlay zone. Chain link fencing is prohibited.

(12) Corner lots. To provide visual interest at an intersection, a corner building may be required to be designed with a turret, steeple, clock tower, widow walk, or other similar feature to provide visual interest, and said feature may exceed the maximum building height by up to ten (10) feet. At least one primary entrance to a building that is situated at the corner of a street intersection shall be located at the corner or within fifty (50) feet of the intersection.

(13) Window area. No less than seventy (70) percent of the first floor facade, sidewalk-level story of a building with nonresidential uses shall be glazed (window area), allowing views into and out of the interior to create visual interest at street level. Ground level commercial space design shall be based on historic precedent. Windows shall be distributed in an even manner consistent with the rhythm of voids and solids of such historic examples, with low sills and high lintels consistent with the window proportions of historic buildings.

(14) Front yard setback. The minimum front yard setback may be reduced to zero feet, provided that the minimum sidewalk width from the curb to the building facade shall be a minimum of eight (8) feet, inclusive of any street tree or planting row. In no case shall the sidewalk width be less than five (5) feet.

(15) A building with a length of fifty (50) feet or more along any street frontage shall be articulated, reducing its apparent size. The mass of a building shall be broken up using a variety of massing changes and/or architectural details such as changes in building height, divisions or breaks in materials, window bays, separate entrances and entry treatments, variation in rooflines, awnings, storefronts, changes in building height, and sections that project or are recessed up to ten (10) feet. For buildings with multiple storefronts, there shall be a direct correlation between the delineations of interior tenant spaces and exterior façade treatments.

(16) Vehicular access. To preserve and promote the safety of the pedestrian realm and to enhance the aesthetic environment of the streetscape, the Planning Board shall limit the number of driveway entrances along the state roads to the maximum extent. This may be achieved by any of the following, either singly or in combination:

(a) Shared driveway access between buildings and lots.

(b) Requiring access be obtained from a side street.

(c) Use of one-way entrances or exits to minimize driveway and curb cut widths.

(d) Curb cuts shall be the minimum width feasible and should not exceed twenty (20) feet for two-way access, except where the fire district or relevant state agency dictates a larger entrance for safety purposes. Control over vehicular access should be achieved through curbing.

I. Pedestrian and vehicular circulation.

(1) All parking spaces shall be set back at least forty (40) feet from the front lot line and screened from view of the street. In no event shall parking be located in front of the building line. Parking areas shall be attractively screened from view of the public street through a combination of fences, walls, and landscaping.

(2) Shared parking, on-street parking, and the use of public parking lots are encouraged. Appropriate legal controls shall be required to ensure that shared parking is available during the existence of the use or building.

(3) Where feasible, a shared secondary road or alley connecting the rear of parcels is allowed.

(4) On-street parking in front of a lot may be counted toward minimum parking requirements based on frontage.

(5) Curb cuts shall be limited to one (1) per parcel unless waived. Shared access is preferred.

(6) To facilitate pedestrian movement, sidewalks shall be provided along streets and within the site and shall connect to adjacent parcels as deemed appropriate by the Planning Board.

(7) Garage doors and vehicle bays shall not face to the street on which the building fronts, unless at the Town's discretion, garages are recessed behind the building line. Door color shall be coordinated with the building, and the Planning Board may require architectural grade doors.

(8) Parking accessory to a use in the overlay zone. The Planning Board, in its discretion, may approve parking on an adjacent lot located in a district adjoining the overlay zone, provided the Planning Board determines the following:

(a) The lot on which the parking would be situated adjoins the principal use which it will serve.

(b) The lot on which the parking would be located is in the same ownership as the lot in the overlay zone, and the Planning Board may require that the lots be merged as a condition of approval.

(c) The Planning Board has determined that parking cannot be accommodated elsewhere in the overlay zone, through shared parking, or within two hundred fifty (250) feet of the lot to which the parking is accessory. The applicant shall provide evidence that an attempt was made to share parking with another use.

(d) The Planning Board finds that to accommodate parking on the same lot in the overlay zone, parking would be located in a manner inconsistent with these design guidelines, or parking would limit the ability to maximize development potential.

(e) The parking, including traffic to access the parking area, will not have an adverse impact on properties adjoining it. The Planning Board shall require a landscape and fence screen

where the parking would adjoin a lot in residential use, or in a residence district.

J. Streetscape, landscape and lighting standards.

(1) Streetscape elements include on-street parking, curbs, street trees, sidewalks, streetlights, public transit shelters and other amenities.

(2) Planters, trees, shrubs, and/or other landscaping shall be provided to enhance the appearance of the streetscape. Ornamental fencing three (3) feet in height may be provided to separate privately owned space from public space. For commercial uses, display areas, and outdoor dining and seating areas may be provided.

(3) Existing large or significant trees and other natural features shall be preserved and incorporated into the proposed site design to the maximum extent practicable.

(4) Any area of a lot not used for buildings, structures, off-street parking and loading, driveways, walkways or similar purposes shall be landscaped with native perennials and noninvasive annuals, shrubs, trees and other ground cover in such manner as to minimize erosion and stormwater runoff and to maintain or improve the aesthetics of such development.

(5) Lighting accessory to a building shall be of style consistent with the architectural design of the building. Shoebox fixtures are not permitted. All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent light at and across the property lines, except that light spillage is permitted where it provides safety lighting to adjoining public sidewalks.

(5) LED strip lights which outline a window, building or other structure and which bulbs are visible from any public street or public right-of-way are not permitted.

K. View corridor standards.

(1) Within D-O zones adjacent to lakes, including Lake Gleneida and Lake Mahopac, view corridors exist which afford views of the lakes and open spaces surrounding the lakes from the street rights-of-way and publicly accessible areas. Where a view corridor exists on a lot proposed to be developed or redeveloped, views to the lake shall be preserved.

(2) The construction of multiple smaller buildings instead of a single large building may be required to preserve view corridors.

(3) Building heights may be restricted to preserve views corridors.

(4) Buildings shall be designed so that the long side of a proposed building or structure is perpendicular to the waterfront. Long buildings that are horizontal to the lake edge are not allowed unless approved by the Planning Board. Parking and other open areas shall occur on the side of the building to allow for open views to the lakes.

(5) Buildings may be shifted to have one larger side setback, rather than two smaller side setbacks,

to protect a view corridor.

L. Rooftop decks. Rooftop patios are permitted. Upper-level balconies shall be allowed where open to the general public, e.g., a restaurant, and it promotes outdoor spaces and lake views. A small cabana or building to serve patrons on the rooftop is allowed, provided the total floor area does not exceed twenty-five (25) percent of the rooftop area, the maximum height shall be ten (10) feet, and it shall be situated so as not to block views. Rails or other safety devices shall be provided to protect occupants and such devices shall be reviewed and approved by the Planning Board and Building Inspector.

§ 156-32 Conservation District; floodplains.

The Conservation District boundaries shown on the Zoning Map include the special flood hazard areas delineated by the Federal Emergency Management Agency and as shown on Flood Insurance Rate Maps for the National Flood Insurance Program, which have an effective date of March 4, 2013, and which may be amended from time to time. The Conservation District also incorporates public lands in the ownership of the Town of Carmel, Putnam County, New York State, and the New York City Department of Environmental Protection, which lands are held in open space, for recreation, or for water supply and water supply protection purposes. Within the Conservation District, the following applies:

A. No principal building or use shall be permitted by right. A special use permit shall be obtained, where a use and/or building is allowed as per the Schedule of District Regulations.

B. Approval of any building, structure or use shall be allowed by special use permit after the applicant has received approval from the NYCDEP or other state or local agencies having jurisdiction over this matter. The construction of a single-family dwelling shall be in accordance with the district regulations applicable to the C zoning district.

C. All buildings and structures located in a floodplain shall adhere to the requirements of Chapter 86, Flood Damage Prevention, of the Code of the Town of Carmel.

D. In the absence of detailed maps delineating the flood hazard area by elevation, an applicant shall apply to the Department of Environmental Conservation or other state or local agency having jurisdiction over the delineation of the location of the flood hazard boundary.

§ 156-33 and 34. Reserved.

Article V Special Use Permit Standards

§ 156-35. Special uses.

A. Approval of special use permits. Except where otherwise provided herein for a Planned Mixed Use Development (PMUD, refer to § 156-36.22), the Town Board of the Town of Carmel authorizes the Planning Board to review and decide upon special use permit applications as set forth in this Zoning chapter. A PMUD shall only be approved by the Town Board, which board shall follow the procedures for special use permits set forth in this Article V.

B. General standards. On application and after public notice and hearing, the Planning Board may approve, by resolution, the issuance of a special use permit exclusively for uses that require a permit as set forth herein. In authorizing a special use permit, the Planning Board shall take into consideration the expressed intent of this Zoning chapter, the general public health, safety, and welfare, and shall prescribe appropriate conditions and safeguards to ensure accomplishment of the following objectives:

(1) The proposed use shall be deemed to be compatible with adjoining properties, and with the natural and built environment of its surrounds.

(2) The site is accessible to fire, police, and other emergency vehicles.

(3) The use is suitable to its site upon consideration of its scale and intensity in relation to environmentally sensitive features, including but not limited to steep slopes, floodplains, wetlands, and watercourses.

(4) Screening and separation distances are provided to buffer the use from adjacent properties where the Planning Board deems it necessary.

(5) The use will not negatively impact ambient noise levels, generate excess dust or odors, release pollutants, generate glare, or cause any other nuisances.

(6) Parking shall be sufficient so as to not create a nuisance or traffic hazard on adjacent properties or roads.

(7) Vehicular, pedestrian and bicycle circulation, including levels of service and roadway geometry, shall be safe and adequate to serve the use.

(8) The location, arrangement, size, operation including hours of operation, and design of the use, including all principal and accessory structures associated with same, shall be compatible with

the character of the neighborhood in which it is situated and shall not hinder or negatively impact the use, enjoyment or operation of adjacent properties and uses.

(9) Utilities, including stormwater, wastewater, water supply, solid waste disposal and snow removal storage areas, shall be adequate to serve the use.

(10) The use shall not negatively impact the visual character of the town or neighborhood.

(11) The use shall not negatively impact historic, scenic or natural environmental features on-site or within the adjacent neighborhood.

C. Waiver of standards. The Planning Board, where it determines reasonable, may waive any individual standard for the approval, approval with modifications or disapproval of a special use permit, except where said waiver is explicitly not authorized herein. Any such waiver of the standards may be exercised in the event they are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a specific special use permit application. No waiver can be granted by implication and any waiver must be granted by specific affirmative vote of the majority of the full membership of the Board.

D. Area variance. Where a proposed special use contains one or more features which do not comply with this Zoning chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to § 159-69 of this Zoning chapter, without the necessity of a decision or determination of the Building Inspector charged with the enforcement of this Zoning chapter.

E. Procedure. Any application for a special use permit shall require site plan approval by the Planning Board in accordance with the site plan regulations contained in this Zoning chapter. The Planning Board shall deem that a special use permit application is complete prior to the conduct of a public hearing on the application. Whenever possible, a hearing on a special use permit should be held concurrently with any hearing held on the site plan.

F. Public hearing. The Planning Board shall conduct a public hearing within sixty-two (62) days from the date a complete special use permit application is received. Public notice of the hearing shall be printed in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof. The Planning Board shall cause the applicant to post notice on the subject property indicating the date, time, and location of the public hearing, and a brief description of the action being considered, at least ten (10) days prior the public hearing date. One (1) notice shall be posted along each property line adjoining a road and shall be clearly visible from said road. Notices shall be affixed in a manner prescribed by the Planning Board. Said notice shall be removed following the close of the public hearing.

G. Notice to the applicant. At least ten (10) days before the public hearing, the Planning Board shall mail notice thereof to the applicant.

H. Notice to the Putnam County Planning Department. At least ten (10) days before the public hearing, the Planning Board shall mail notices thereof to the Putnam County Planning Department, as required by §239-m of the New York State General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.

I. Decision. The Planning Board shall decide upon the application within sixty-two (62) days following the close of the public hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

J. Filing. The decision of the Planning Board on the application shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

K. Existing violation. No special use permit shall be issued for a property known to be in violation of this Zoning chapter unless the granting of a special use permit and site plan approval will result in the correction of said violation.

L. Deemed to be a conforming use. Any use for which a special use permit has been granted shall be deemed to be a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted. The expansion of any special use shall require an amendment of the special use permit by the Planning Board in accordance with the special use permit application and approval procedures contained herein. For purposes of this section, expansion shall be interpreted to mean an increase in the area allocated to the special use, an increase in development coverage, or an increase in the intensity of use, e.g., an increase in traffic or need for on-site parking.

M. Expiration of special use permit; extension of special use permit for good cause. A special use permit shall be deemed to have expired if it ceases operation for a time period equal to or greater than twelve (12) consecutive months for any reason, or if construction is not completed within eighteen (18) months from the date of issuance. The Planning Board may consider two (2) extensions of up to six (6) months from the date of issuance.

N. Inspections. In connection with the issuance of a special use permit, the Planning Board may provide for inspections to be conducted by the Building Inspector to ensure continued compliance with this Zoning chapter and any conditions of the special use permit. The special permit shall be subject to revocation after a hearing by the Planning Board at which the permit holder is given an opportunity to be heard if any inspection of the property by the Town of Carmel for the purpose of

ensuring compliance with the provisions of this section is refused by the owner/operator, when said inspection occurs at any reasonable time during daylight hours or the continuing conditions of the special permit are violated.

O. Renewal. The Planning Board may require that a special use permit be renewed periodically as a condition of special use permit approval. Sixty (60) days prior to the expiration of a special use permit, the applicant shall apply to the Building Inspector for renewal of the special use permit. The Building Inspector shall inspect the premises to verify that the conditions of the permit have been met within fifteen (15) days following a request for renewal. Upon a finding that there are no violations or noncompliance of the conditions of the special use permit, the Building Inspector shall so advise the Planning Board and the special use permit shall be renewed by the Planning Board for a time period to be set at its next regular meeting. However, where the Building Inpector finds that the applicant is not in compliance with the special use permit or that violations exist, then such renewal shall require Board approval and may be granted only following a public hearing. Renewal may be withheld upon a determination by the Planning Board that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted the applicant for full compliance prior to the revocation of said permit.

P. SEQRA. In its review and decisionmaking, the Planning Board shall comply with the regulations implementing the New York State Environmental Quality Review Act.

Q. Independent review. The Planning Board and Town Board are authorized to retain such independent professionals necessary to assist in the review of applications. Any such cost of review shall be reimbursed by the applicant. An escrow account shall be establish in accordance with the Fees of the Town of Carmel.

R. Fees. An application fee shall accompany the special use permit application in an amount established in the fee schedule duly adopted by the Carmel Town Board.

§ 156-36 Individual standards.

In addition to the general standards set forth in § 156-35.B of this section, the following individual standards shall apply to certain special uses.

§ 156-36.1 Automotive service station.

A. The lot shall have a minimum lot area of twenty thousand (20,000) square feet.

B. No filling station shall be permitted within a radius of one thousand (1,000) feet of another gasoline filling station, either existing or for which a building permit has been issued.

C. Not more than two driveways shall be permitted for each two hundred (200) feet of lot frontage. Driveways shall be at least twenty-four (24) feet wide and not wider than thirty-six (36) feet and shall be located at least twenty-five (25) feet from a side lot line. No driveway to or from a service station shall cross any sidewalk located within two hundred (200) feet of any elementary school, library, playground or other recreation facility used by elementary school-age children. Vehicle access shall be controlled through the use of curbing.

D. For pre-existing filling stations where automotive repair is occurring, no auto repair work shall be performed in the open, and all automobile parts, dismantled vehicles and products for sale shall be stored within a fully enclosed structure. Gasoline or oil sales, changing of tires and other similar minor servicing shall not be considered repair work. No new filling station shall permit automotive repair.

E. All gasoline and similar substances shall be stored underground at least forty (40) feet from any property line other than a street right-of-way line.

F. All gasoline pumps shall be located at least fifty (50) feet from any street right-of-way line and fifty (50) feet from any lot line.

G. Under no circumstances shall any area of the lot be used for the storage of inoperable vehicles or used as a junkyard, as defined in § 156-8 of this Zoning chapter.

H. Screening and landscaping, in the form of a fence, wall or perennial plants and shrubs at least six (6) feet in height and for a depth of twenty (20) feet shall be provided around the perimeter of the site, except for access driveways. A landscaping and lighting plan shall be submitted.

I. All canopy lighting shall be recessed into the ceiling of the canopy. The Planning Board may require that the canopy conceal any fire suppression devices in the canopy.

J. All lighting shall be shown on a lighting plan. Lighting shall meet the requirements for lighting set forth in § 156-45.

K. A convenience store, not exceeding a total gross floor area of four thousand (4,000) square feet, is permitted accessory to a filling station. No storage of any materials for sale shall be displayed outdoors.

L. Automotive filling stations shall not be designed to serve tractor trailer and heavy-duty vehicles.

M. Internal circulation shall be provided so that no vehicle must exit and re-enter the site to access a gasoline pump or the convenience store.

§ 156-36.2 Automotive car sales lots.

New and used car lots shall be permitted, provided that:

A. No automobile shall be stored or displayed nearer to the street line than twenty-five (25) feet.

B. There shall be a twenty (20) foot landscape buffer around the perimeter of the site. The balance of the site may be used for the outdoor display or storage of vehicles subject to compliance with all other zoning regulations.

C. Repair work, storage and sale of auto parts and accessories shall be conducted in a fully enclosed building.

D. Buffer planting and fencing at least six feet in height and for a depth of at least ten (10) feet shall be provided to buffer adjoining existing residential uses or residential zoning districts. The buffer strip shall be densely planted evergreen species and perennials and shall be specified according to type upon submission of a landscaping plan.

E. Dumpster locations shall be screened from public view. All refuse shall be disposed of in waste containers and removed from the premises on a regular basis.

F. No parking shall be permitted within the required front yard.

§ 156-36.3 Automotive repair facility.

A. All automotive repair work shall be conducted in a fully enclosed building. All vehicles stored on the premises in excess of seventy-two (72) hours shall be placed in an enclosed and screened storage yard.

B. The exterior display or storage of new or used automobiles or automobile parts is prohibited.

C. Where an automotive repair use adjoins a residential use, a minimum ten (10) foot landscape screen shall be provided adjacent to the shared property line, consisting of evergreens and perennial plantings. A landscaping plan shall be submitted.

D. Bay doors shall not face to any public right-of-way. Bay doors shall face the rear yard or to a side yard not abutting a residential use. Where an automotive repair establishment adjoins a residential use, a minimum ten (10) foot landscape screen shall be provided adjacent to the shared property line. The Planning Board may approve an alternative arrangement of bay doors to mitigate impacts to adjoining uses.

E. Dumpster locations shall be screened from public view. All refuse shall be disposed of in waste containers and removed from the premises on a regular basis.

F. No parking shall be permitted within the required front yard.

§ 156-36.4 Short term rentals (STR).

A. Purpose. It is the purpose and intent of this provision to address the need of residents to locate convenient accommodation for visitors, to provide local accommodation for short-term visitors to the community, to provide economic support for existing residents, and to protect and preserve property values. A STR shall require a special use permit and site plan approval from the Planning Board.

B. Accessory use. A STR shall be permitted accessory to an owner-occupied single-family detached dwelling. The STR may be operated from the principal dwelling, or from an existing building accessory thereto on the same lot as the principal dwelling.

C. Owner-occupancy required. The operator of the STR shall be an owner of the property and an occupant of the single-family detached residential dwelling to which the STR is accessory. Any one property owner is permitted only one STR within the Town of Carmel. The owner of the lot shall continue to occupy and maintain the STR as the owner's legal residence.

D. Standards. The Planning Board may grant a special permit for a STR. The following standards shall apply:

(1) Maximum guest occupancy. Not more than four (4) bedrooms shall be permitted to be used for rental purposes, and no more than two (2) persons may occupy any bedroom. Each bedroom shall meet all requirements of the NYS Building and Fire Code. Smoke alarms shall be installed in each bedroom of the STR. A floor plan of the existing dwelling with identification of the bedroom(s) to be used by overnight guests shall be submitted as part of the application.

(2) Prohibitions. A STR is prohibited from occupying the following structures or vehicles: tents, campers, recreational motor vehicles, trailers, storage pods, yerts, teepees, storage containers – any vehicle with or without wheels, mobile homes, dumpsters, and similar appurtenances.

(3) Bulk standards. A STR is permitted on a lot which complies with Schedule of District Regulations, applicable to the zoning district within which it is located. The Planning Board, in its discretion, may require a larger minimum lot area or larger setbacks where it determines that it is required to protect adjoining residential properties. In no event shall the minimum lot area be less than eighty thousand (80,000) square feet.

(4) Access. A STR shall not be permitted if access only is from a private road. The driveway serving the STR shall have direct access to a public road over lands owned by the owner.

(5) Length of stay. There shall be a limit of not more than fourteen (14) consecutive days for the length of stay by any guest.

(6) Registry. The STR shall maintain a guest registry and related financial records and said registry shall be provided upon demand of the Town if the Town has reasonable cause to suspect a violation of any provision of this section.

(7) Events. The establishment and operation of the STR shall not alter the appearance of the residential structure as a single-family detached dwelling nor provide for any outdoor large group gatherings, picnics, weddings or other activities that would create excess noise, traffic, on-street parking or other undesirable effects to the neighborhood.

(8) Signs. Identifications signs for the STR shall be in compliance with the provisions of § 156-42.

(9) Parking. Parking shall be at least the minimum required for the principal use, plus an additional one parking space per each bedroom used for an STR. The parking shall be screened, if necessary, to the satisfaction of the Planning Board.

(10) Waste removal. Waste shall be placed within an enclosure such as a dumpster or garbage cans and removal shall occur on a regular basis and no waste shall be deposited on any STR site.

(11) Water supply/wastewater. The applicant shall provide evidence and certify that the individual well and the septic system for the STR can handle any increased flow from the operation of the STR.

(12) License. The operator of the STR shall obtain a license from the Town Building Department. The operator shall fill out forms prescribed by that office and shall comply with all relevant building, health department and fire safety codes. The premises will be subject to periodic safety inspections by the Building Inspector. Emergency contact information shall be provided as part of the license, which shall include the owner of the property, and/or an additional party which can provide access to the site 24 hours, seven days per week.

(13) License renewal. The STR license shall require annual renewal from the date of issuance or shall require renewal on such further inspections of complaints or reasonable grounds to determine violations exist and that the STR is not operating in accordance with its approval. The Building Department, in its discretion, can refer any license which requires renewal to the Planning Board for reapproval where it determines alterations to the STR have occurred absent said approval.

(14) License transfer. The Building Department is permitted to transfer the STR license to a new operator who also is an owner. Simultaneous notification shall be provided to the Town Tax Assessor and Planning Board or upon the conduct of a municipal search requested by an owner. The STR shall continue to meet all the requirements of the original license. Any proposed modifications shall require Planning Board review and approval.

(15) Good neighbor and emergency brochure. The STR operator shall notify the occupants of any Town nuisance laws that exist now or in the future and shall prepare a brochure which will establish "good neighbor" policies so that the STR does not impact residential adjoiners. The brochure shall also include standard information regarding the agencies to contact in the event of an emergency which shall be kept up to date. The Planning Board shall approve the brochure, and same shall be posted to any website advertising the STR.

(16) Number of STRs. Maximum number of STRs. The Carmel Town Board by resolution, may establish a limit on the total number of STRs permitted in the Town.

(17) Grace period. At time of the adoption of the local law allowing STRs, a property owner operating a short-term rental without a permit, or in violation of the standards set forth herein, shall submit a STR permit application within ninety (90) days from the effective date of this Zoning chapter. Any property owner operating a STR after the said period without having obtained a STR Planning Board approval shall in be in violation of the STR regulations and shall immediately cease such operations until such time that a Planning Board approval is issued.

§ 156-36.5 Clubs.

Clubs, including country, golf, swim, tennis and other court games, but not including rod and gun clubs, shall be permitted, provided that:

A. The minimum site size for a nine-hole golf course shall be seventy-five (75) acres and for an eighteen (18) hole golf course shall be one hundred fifty (150) acres. The minimum site size for clubs other than golf clubs shall be five (5) acres.

B. Where a swimming pool is provided, such pool shall contain one and seven-tenths (1.7) square feet of water surface area for each member household expected to use such facilities. A twenty-five (25) meter pool shall have a minimum width of forty-five (45) feet, and a fifty-meter pool shall have a minimum width of sixty (60) feet. A paved sitting area contiguous to all sides of such pool and having an area two (2) times the water surface of the pool shall be provided.

C. Where any active sport area of said membership club site abuts a residential district, a landscaped buffer having a height of at least six (6) feet and a depth of at least ten (10) feet shall be provided.

D. On-site paved parking spaces shall be provided at a ratio of two (2) for each member household, plus one (1) space for each full-time employee.

E. Where a restaurant and/or bar is provided for nonmember as well as member use, on-site paved parking shall be provided at a ratio of one space for each three seats, including barstools, or one (1) space for each forty (40) square feet of floor area devoted to patron use where the capacity is not determined by the number of fixed seats provided.

§ 156-36.6. Corridor commercial uses in residential zones.

A. Intent. To retain the primarily open and residential environment within the OSR and NR zone and create a smooth transition in land uses and intensities of development along Route 6, Route 6N, Route 52, and Route 301, a limited number of nonresidential uses are allowed (professional offices, custom workshops and arts and crafts shops in addition to uses permitted the applicable zoning district), provided that they conform to the character of established surrounding patterns of development. Both new and renovated structures shall retain the character and scale of the surrounding residential neighborhood. It is the further intent to preserve and enhance older or architecturally significant dwellings and their individual character.

B. The following uses shall be allowed within an existing residential building which may be converted subject to the requirements of this section: professional office, medical and dental office, custom workshops, antique shops, art galleries, or a personal service commercial use.

C. Where a building exists, the use is allowed within the converted dwelling. No existing building shall be demolished to accommodate the uses set forth herein, unless the Planning Board, after consultation with the Building Inspector, determines that the dwelling is uninhabitable and cannot be rehabilitated. Cost alone shall not be the determinative factor in whether a building can be rehabilitated.

D. The maximum lot coverage, including all parking areas, shall not exceed forty (40) percent of the total lot area.

E. The lot on which the use is proposed shall have a minimum fifty (50) feet of street frontage and shall obtain vehicular access directly to a street or highway identified in this section.

§ 156-36.7 Craft beverage establishment.

A. The use and operation shall meet all of the requirements of the New York State Liquor Authority, Alcoholic Beverage Control Law and any other town, county, state or federal agency having jurisdiction over the manufacture and sale of alcohol.

B. Such use shall be open to the public during hours in in accordance with state regulations. The Planning Board, in its discretion, may limit such hours depending on the uses, location and proximity to residential uses.

C. Within any residential zoning district, the use shall be allowed only on a parcel with frontage on and direct access from a state or county road. A one hundred (100) foot buffer shall be established along any lot line adjoining a residential use or a residential zoning district line. In a residential zoning district, the minimum lot area shall be five (5) acres, provided the Planning Board may allow the use on a lot no less than three (3) acres where it determines the use does not abut any residential uses.

C. A landscaped buffer or suitable fencing as approved by the Planning Board shall be provided along the side and rear property lines.

D. In the event that New York Law supersedes these requirements, then such state law shall apply.

§ 156-36.8 Cultural and performing arts center.

A. The buildings and structures shall be compatible with the rural character exhibited within the surrounding environs, the character of the community and the natural surroundings. The Planning Board shall review and approve the architectural style of the buildings and structures, taking into consideration the objectives set forth herein.

B. The applicant shall demonstrate that adequate emergency services are available to serve the use. The applicant shall prepare a safety management plan that demonstrates that adequate emergency access is provided to the site. Police, fire, ambulance and other agencies that are required to service the use shall be provided with a copy of the application for review and comment, and the Planning Board shall take said comments into consideration in its deliberations. The Town Board shall approve the safety management plan, and a copy thereof in final form shall be filed by the applicant with the Town Clerk and County and local emergency service organizations.

C. In order to minimize visual and noise impacts on adjoining parcels, no building, parking area or road shall be permitted within one hundred (100) feet of any property line. A combination of fencing, natural, undisturbed areas, supplemental plantings or landscaping shall be provided to create a separation between surrounding existing and prospective uses and the proposed development.

D. A traffic study shall be submitted in conjunction with the special use permit application. The applicant shall confer with the Planning Board regarding the scope of the traffic analysis prior to

the study being conducted. The Planning Board shall evaluate the use's impact on the surrounding road network and may limit the size of the facility to mitigate significant adverse traffic impacts.

E. Parking areas shall be broken up and landscaped to avoid the appearance of significant expanses of impervious surfaces. Truck-loading facilities shall be provided as required in Article VI of this Zoning chapter.

F. All areas of the site shall be amply landscaped by preserving existing vegetation, or by installing a combination of decorative and native plant materials. A landscape plan shall be submitted and approved as part of the site plan application pursuant to this Zoning chapter.

G. On-site lighting shall be designed and installed in accordance with § 156-45. A lighting plan shall be submitted and shall meet the standards set forth in this Zoning chapter. Decorative lighting fixtures appropriate to a rural and rustic setting shall be incorporated into the overall design of the development.

H. The applicant shall furnish a master signage plan illustrating the location and design of on-site signs, which shall be approved as part of the site plan. Signs shall be uniform and attractive in appearance. The Planning Board is authorized to modify the sign standards to accommodate this master signage plan, provided that the signage is part of a consistent theme that blends into the natural environment, makes maximum use of ground signs as contrasted with pole signs, mostly utilizes natural materials such as wood and stone for sign construction, and employs landscaping of such signs to enhance appearances. The Planning Board may waive the requirements set forth in § 156-42 to achieve the design objectives set forth herein for signs.

I. The site plan must depict those uses proposed for development or that may reasonably be anticipated for development by the applicant, including, but not limited to, pavilions, amphitheaters, concert halls and other musical and performing arts performance areas, together with major administrative, food service, interpretive, lodging, parking, residential structures and seating facilities to accommodate performing arts patrons. The site plan must also depict off-site parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses. The plan shall include all infrastructure including water supply, sewer service, and stormwater facilities. The plan must also demonstrate that the development design standards listed above will be met or the extent to which any modifications will be necessary.

J. Concurrent with its overall development plan submission, an applicant may also submit a detailed site plan application for one or more phases of its overall development. That site plan must comply with the requirements of this section and of Article X of this Zoning chapter.

§ 156-36.9 Day camps.

Day camps shall be permitted, provided that:

A. No camp shall be operated on a site less than ten (10) acres in size. There shall be not more than one camper for each two thousand (2,000) square feet of lot area, with a maximum of four hundred (400) campers permitted at any camp.

B. No building or structures shall be located closer than one hundred fifty (150) feet to any property line.

C. Outdoor recreation areas, including picnic areas, shall be located a minimum of fifty (50) feet from any property line.

§ 156-36.10 Day-care center and day nurseries.

Day-care centers and day nurseries shall be permitted as principal uses, provided that:

A. The minimum lot size shall be one (1) acre.

B. There shall be not more than one child for each fifteen hundred (1,500) square feet of lot area and a total of not more than one hundred (100) children in a facility.

C. The site shall contain at least two hundred (200) square feet of outdoor play space per child with a minimum play space of one thousand (1,000) square feet for any nursery or school. The play space shall be located in a rear or side yards at least fifty (50) feet from any lot line and at least one hundred (100) feet from any dwelling on an adjacent property. The outdoor play area shall be screened with a fence that is six (6) feet in height to protect the school children and to avoid any nuisance to adjoining properties. Hedges and plantings may supplement the fence for screening purposes.

D. Play or instructional space within a building shall be located on the first floor only and contain at least thirty-five (35) square feet of area for each child, exclusive of cloakrooms, lavatories, storage rooms and hallways. No play or instructional areas shall be below grade. There shall be at least one (1) toilet and one (1) washbasin for each fifteen (15) children.

E. One (1) off-street parking space for each teacher and staff member and one (1) space for every ten (10) children. Parking areas shall be located at least fifteen (15) feet from side and rear lot lines and at least fifty (50) feet from the street line. The parking area shall be permanently improved and, if located adjacent to any play area, shall be screened by a fence or hedge at least four feet in height. Adequate space shall be provide to allow for queuing of vehicles for child pick-

up and drop off areas.

F. One (1) identification sign, not to exceed two (2) square feet in area, shall be permitted in accordance with the provisions of § **156-42** pertaining to signs.

G. The facility shall be licensed if required by applicable state law and shall be subject to the requirements of any federal, state, county or local regulatory agencies.

H. The Building Inspector shall inspect the school or nursery and issue a permit renewal on an annual basis provided the facility continues to meet all requirements and conditions of any approval.

I. All accessory structures and features shall be adequately accommodated on the site. Dumpsters shall be indicated on the site plan and shall be enclosed and screened. Storage buildings shall be directly accessible and shall not interfere with circulation patterns or open space areas. All play apparatus shall be installed in accordance with the manufacturer's specifications.

J. The facility shall be supported by water supply, sanitary sewer, and stormwater utilities that are adequate to accommodate the anticipated use of the facility. The applicant shall submit a utility infrastructure analysis that documents the adequacy of water, sewerage, electric, telephone, cable TV and any other utility service necessary to support the facility. Documentation from the utility service providers shall support this analysis.

§ 156-36.11 Designed shopping centers.

Designed shopping centers shall be permitted, provided that:

A. A shopping center plan, including its accessory on-site parking and loading facilities, access and entranceways, landscaping and other elements of the plan, shall be a comprehensive design for the entire center, identifying the maximum total floor area of all buildings in the center.

B. For a neighborhood-type shopping center which generally requires a market area of at least a population of five thousand (5,000) and draws its clientele from a one-and-one-half (1.5) mile radius, the minimum lot area shall five (5) acres. For a community-type shopping center which generally requires a market of at least a population of forty thousand (40,000) and draws a clientele from a three-and-one-half (3.5) mile radius, the minimum lot area shall be twenty-five (25) acres. For a regional-type shopping center which generally requires a market of at least one hundred fifty thousand (150,000) persons and draws its clientele from a twenty (20) minute driving-time radius and up to a fifteen (15) mile radius, the site shall be at least fifty (50) acres in size.

C. On-site parking and loading facilities shall be in accordance with the Schedules of Off-Street Parking and Loading that are contained in § **156-43**.

D. Signs shall be in accordance with the regulations on signs contained in § **156-42**.

E. Any site plan for a shopping center shall illustrate the internal circulation system including emergency access and driveways to access the public street. The Planning Board may require a Traffic Impact Study to demonstrate that traffic generated by the shopping center will not adversely impact the adjoining street network.

F. A market study, prepared by an impartial professional selected by the Town at the applicant's expense, shall be required by the Planning Board to indicate the particular need for such use and to confirm a market for a shopping center of this size and floor area exists.

§ 156-36.12 Drive-through facility.

A. Drive-through facilities, which are convenient to motorists, can diminish the pedestrian experience if not designed appropriately and negatively impact adjoining properties. The Planning Board, in assessing whether to allow a drive through facility, shall consider the following:

(1) Entrances and exits for a drive-through facility shall not require any additional driveway and curb cut than required for the principal building to which is it accessory. The drive-through facility shall be attached to the principal building.

(2) Shared use of existing or proposed driveways shall be encouraged.

(3) The drive through shall be accessory and incidental to a use allowed in the district.

(4) The drive through window, access queuing lane, and other related elements shall be located behind the building and screened from view from any public street or right-of-way.

(5) The Planning Board may require that a vehicle stacking analysis be submitted to ensure that the vehicle queue at the drive through window will not block or interfere with an entry/exit from any parking space and to or from a street.

(6) Landscaping, walls, and fences shall be used to screen parking areas and provide visual interest.

(7) All boards, speakers, and service windows shall be situated in a manner so as not to be audible beyond the property line on which the use is located.

(8) The drive-through window and drive lanes shall be situated so as not to require a pedestrian to cross the drive-through lane when accessing the interior of the building.

§ 156-36.13 Dwellings in the Hamlet Mixed Use Centers.

A. Within the HMC zoning district, single-family attached and multifamily dwellings are allowed by special use permit approval.

B. No lot located within the HMC zone, which lot maintains lake frontage or which lot or any portion thereof is within 100 feet of the mean high water line of a lake, shall be developed with dwellings, including dwellings above ground floor uses. The Planning Board is not authorized to waive this provision, and any such application requesting dwellings on a lot with lake frontage or within 100 feet of the mean high water line shall require a use variance. Nothing herein shall require a pre-existing dwelling to obtain a variance, and said dwelling may continue, provided no additional dwellings on said lot shall be permitted.

C. Within the HMC zones, the primary objective is to enliven the existing hamlets and to encourage a variety of commercial uses at the ground floor level. In order to achieve this objective, single-family attached or multifamily dwellings shall not be permitted to front to or be located within 50 feet of the right-of-way of the following roads: Gleneida Avenue, Stoneleigh Avenue, Marine Drive, South Lake Boulevard, Route 6, Cherry Lane between South Lake Boulevard and Route 6. Dwellings above ground level commercial uses are permitted along these roads, in addition to commercial uses, as per the Schedule of District Regulations.

D. Building height. The maximum building height for a single-family attached dwellings shall be two-and-one-half (2.5) stories and shall be three (3) stories for multifamily dwellings. No building shall exceed thirty-five (35) feet in building height.

E. Dwelling size. The minimum dwelling size for a multifamily dwelling shall be six hundred fifty (650) square feet of habitable space, and twelve hundred (1,200) square feet for a single-family attached dwelling. No dwelling shall have fewer than one (1) bedroom per dwelling.

F. Residential density. The residential density shall be eight (8) dwellings per one (1) acre for single-family attached dwellings, and twelve (12) dwellings per one (1) acre for multifamily dwellings.

G. Parking. Parking shall not be permitted within any front yard. Buildings shall be situated with the buildings fronting to existing town, county or state roads, and parking shall be accessed via an alley or driveway to a parking lot located to the rear or beneath the buildings.

H. Utilities. The applicant shall demonstrate the development can be served by public water and public sewer. All utilities shall be underground.

I. Architectural review. The applications shall be subject to architectural review as per the requirements of the D-O zoning district.

J. Lot coverage. Buildings must either front to a public sidewalk or shall otherwise be provided a twenty (20) foot landscaped front yard. The Planning Board may allow an increase of the lot coverage up to seventy-five (75) percent, depending on the location of the development, and the need to accommodate a buffer or screen between the development and any adjoining residential zoning districts or commercial uses.

K. Recreation. The development shall include 300 hundred (300) square feet of outdoor recreation per dwelling unit or shall otherwise provide a fee in lieu of land as per § 156-85.

L. Conversion of residential buildings. The conversion of existing residential dwellings constructed to multifamily dwellings may be allowed subject to Planning Board approval, and there shall be no more than one dwelling per story regardless of whether the building can accommodate additional dwellings as per the residential density standard set forth herein. The conversion of any other building shall be in accordance with the standards set forth herein.

M. Parking shall be provided as follows: one-and-one-half (1.5) parking spaces per one (1) bedroom; two (2) spaces per two (2) bedrooms; two-and-one-half (2.5) spaces per three (3) or more bedrooms.

§ 156-36.14 Educational institutions.

Private schools and other institutions of higher learning shall be allowed by special use permit, provided that:

A. Said school or institution shall be a nonprofit organization within the meaning of the Education Law of New York State.

B. Such school shall have, as its prime purpose, the general education of students in the arts and sciences and shall be licensed by the New York State Department of Education if a license for its operation is required by law.

C. No school permitted hereunder shall be a trade or vocational school, except to the extent that instruction in a particular trade or trades may be a part of the general education curriculum of the school in the arts and sciences. No correctional, health or any other institution not primarily concerned with the general education of students in the arts and sciences shall be permitted.

D. The minimum lot area shall be five (5) acres, plus one (1) acre for each additional one hundred (100) students or portion thereof.

E. A minimum of ten (10) parking spaces, plus three (3) spaces per classroom shall be required for those schools with students of elementary and junior high school age. Schools with students of at

least high school age shall provide at least twenty (20) parking spaces, plus five (5) spaces per classroom.

§ 156-36.15 Fast-food restaurants with drive through facility.

A. Fast-food restaurants are subject to the following:

(1) They are fully enclosed establishments.

(2) The site shall not be located closer than two hundred (200) feet to the boundary of an abutting residential zoning district.

(3) Points of vehicular ingress and egress shall be limited to the adjacent thoroughfare having commercial zoned frontage only.

(4) Entrances and exits for a drive-through facility shall not require any additional driveway and curb cut than required for the principal building to which is it accessory. The drive-through facility shall be attached to the principal building.

(5) Shared use of existing or proposed driveways shall be encouraged.

(6) The drive through window, access queuing lane, and other related elements shall be located behind the building and screened from view from any public street or right-of-way.

(7) The Planning Board may require that a stacking analysis be submitted to ensure that the queue will not block or interfere with an entry/exit from any parking space and to or from a street.

(8) Landscaping, walls, and fences shall be used to screen parking areas and provide visual interest.

(9) All menu boards, speakers, and/or service windows shall be situated in a manner so as not to be audible beyond the property line on which the use is located.

(10) The drive-through window and drive lanes shall be situated so as not to require a pedestrian to cross the drive-through lane when accessing the interior of the building.

B. Fast-food restaurants are characterized as those eating establishments that are distinguished by one or more of the following:

(1) Containers and utensils are disposable (cardboard, paper, plastic, etc.).

(2) Orders are given over the counter and are not taken at individual tables.

(3) Menus are posted rather than printed and dispensed to customers.

(4) Customers clear the table area of trays, food, utensils, etc., upon the completion of the meal.

§ 156-36.16 Home occupations.

Home occupations are allowed by special use permit, provided that:

A. Such uses are confined to not more than twenty-five (25) percent of the habitable floor area of one (1) floor of the principal structure, which use and structure in which it is located shall also conform to all other applicable zoning requirement.

B. Not more than two (2) persons shall be employed in said home occupation or trade, at least one (1) of whom must be a resident of the premises.

C. Such uses shall not take place earlier than 7:00 AM or later than 8:00 PM.

D. No mechanical equipment shall be used other than that which is customary for domestic or household purposes.

E. No exterior storage of materials shall be allowed.

F. No signs identifying the home occupation shall be permitted.

G. Off-street parking shall be provided for any employee.

H. No home occupation shall require overnight accommodations.

I. A home occupation shall not require any lighting that is not otherwise customary to the dwelling.

§ 156-36.17 Hotel; boutique hotel.

A. Use. Use of a hotel site and any buildings or structures thereon shall be limited to the usual hotel activities, as defined herein, and accessory uses incidental to the operation of a hotel, and of the same general character, including but not necessarily limited to the following, provided that all accessory uses shall be planned as an integral part of the hotel and located on the same site therewith.

B. Minimum lot size. The site shall be at least two (2) acres, with a minimum frontage of four hundred (400) feet on a state, county or Town road.

C. Accessory uses. All space dedicated to accessory uses except for parking and landscaped areas, and

including dining rooms, swimming pools and recreational areas whether indoors or outdoors or a combination thereof, shall not occupy more than thirty percent (30%) of the total gross floor area of the hotel. The following accessory uses are permitted, subject to approval by the Planning Board:

(1) Caretaker residence. One accessory dwelling within the hotel and with or without kitchen facilities for the use of the hotel manager.

(2) Restaurant. Restaurants and kitchen areas, serving either hotel guests exclusively or to the general public, provided that no music or other sound shall be audible beyond the boundaries of the lot on which the use is constructed and further provided sufficient parking is made available to patrons.

(3) Recreation facilities. Indoor and outdoor amusement and sport facilities for the exclusive use of hotel guests, including swimming pools, children's playgrounds, tennis or other game courts and game or recreation rooms, and not including membership clubs. A swimming pool is permitted to be outdoors and shall not be open to the general public.

(4) Parking. Automobile parking lots for the exclusive use of hotel patrons and employees, and off-street parking spaces. The Planning Board, in its discretion, may allow dedicated spaces for the overnight parking of a recreational vehicle, or tractor trailer spaces.

(5) Office and lobby. Office and lobby, provision of which shall be mandatory for each hotel.

(6) Retail sales. A small retail area for the purchase of sundries and snacks by guests.

(7) Spas, restaurant/bar, conference rooms, ball rooms.

(9) Socks are not allowed accessory to a hotel or boutique hotel use.

D. Guest units.

(1) Occupancy. In no case are guest units to be used as apartments for nontransient tenants. The maximum stay shall be no more than fourteen (14) consecutive days within any thirty (30) day time period. The Planning Board, in its discretion, can waive this standard for an extended stay hotel, only where it finds that ample safeguards are provided to ensure guests do not become nontransient tenants.

(2) Interconnections. Hotel sleeping rooms shall not be interconnected by interior doors in groups of more than two (2).

(3) Size. Each sleeping room shall have an area, inclusive of bathroom and closet space, of at least 225 square feet.

(4) The maximum number of guest sleeping rooms for any hotel site, inclusive of all buildings, shall be 150, or no more than one (1) guest sleeping room for every two thousand (2,000) square

feet of lot area, whichever is less, which maximum cannot be waived by the Planning Board.

(5) There shall be no kitchen facilities in a guest sleeping room, except as may be approved by the Planning Board for extended stay hotels. Each guest unit shall include a full bathroom, including sink, toilet facility, and shower/bath installation.

(6) All rooms shall be furnished by the hotel operator. No furniture may be added or provided by any guest.

E. Dimensional regulations. The maximum length of any hotel building shall not exceed three hundred (300) feet.

F. Access and service roads. Access and service roads shall be properly related to public streets and highways so as to avoid unsafe conditions and traffic congestion. Points of ingress and egress shall not exceed a total of two on any street. No backing of cars onto any highway shall be permitted.

G. Off-street parking. Where a hotel includes a restaurant or other eating and drinking facilities open to the public, required parking space shall be provided for such facilities, in addition to required parking spaces for sleeping rooms and other floor space. No parking space shall be located within twenty-five (25) feet from any hotel building ingress or egress, including emergency egress. All off-street parking areas shall be at least twenty-five (25) feet from any property lines.

H. Solid waste. There shall be a central facility for deliveries, management of solid waste and similar activities.

I. There shall be no outdoor public-address or music system audible beyond the property line.

J. The site shall be served by water supply and sanitary sewer.

K. Boutique hotel. In addition to the standards set forth above, a boutique hotel shall be limited in occupancy to the maximum set forth in the definition for “boutique hotel.” The minimum lot area within a residential zoning district for a boutique hotel shall be five (5) acres. A minimum one hundred (100) foot buffer shall be provided along any lot which adjoins a lot in residential use.

§ 156-36.18 Light industry; self-storage, warehouse.

Light manufacturing, converting, processing, altering, assembly, finishing, printing or other handling of materials or products and self-storage warehouses shall be permitted, provided that:

A. Such industrial uses or the occasional byproducts of such uses shall not create a hazard to the health or safety of the residents of Carmel and others on adjoining property, nor shall there by any negative impact on the physical, social or aesthetic environment.

B. No ongoing nuisance conditions, such as noise, objectionable odors, glare or visual pollutants, will accompany the activity or occur at a frequency that will constitute a nuisance. (See § **156-47**, Industrial performance standards)

C. All self-storage warehouses shall be for dead-storage activities only. Retail activities, storefronts and office activities shall be prohibited within the self-storage center, except that one office for the operation of the center and limited retail sales of products and supplies incidental to the principal use shall be permitted within the office area. The following are also prohibited: flea markets, hobby shops, servicing and repair of motor vehicles, boats, etc.; the operation of power tools, spray-painting equipment, kilns or other similar equipment. The ability to hold public auctions for units shall be held only upon approval of the Planning Board. All storage, including cars, shall be inside a building; outside storage shall be prohibited. Vehicle parking shall be for customers and employees only while they are on the site. Motor vehicles shall not be parked or otherwise stored outside within the center. Operating hours shall be limited from 7:00 A.M to 11:00 P.M.

D. Where the lot is adjacent to a residential area, screening shall be provided as in the C/BP District.

E. Any lighting shall be shielded to direct light onto the established uses and away from adjacent property, but it may be of sufficient intensity to discourage vandalism and theft. Lighting shall meet the requirements of § 156-45.

F. One off-street parking space per ten thousand (10,000) square feet of storage area shall be provided.

§ 156-36.19 Manufactured housing.

A. Manufactured housing is allowed in the Manufactured Home Park district. Manufactured housing is not otherwise allowed on individual parcels as a single-family dwelling in any zoning district.

B. Design criteria for manufactured home. A manufactured home shall comply with the following design criteria:

(1) A manufactured home and any deck or other addition shall be mounted on a permanent concrete slab base or footing at least four inches thick, with skirting provided. The base of each manufactured home shall be enclosed with suitable material approved by the Planning Board.

(2) A manufactured home shall be finished with a natural or artificial materials that, because of their color and texture, have the appearance of clapboards, wood shingles or other traditional house siding and blend in with the landscape to enhance or maintain the attractive visual

character of the neighborhood.

(3) Two (2) off-street parking spaces shall be provided for each manufactured home. Dustless surface off-street parking spaces shall be provided for each mobile home lot, which may be permitted in the front yard of said lot. There will be no parking on the street.

(4) A manufactured home shall have shingled, peaked roofs with a minimum pitch of four over twelve (4:12).

(5) A manufactured home shall comply with currently applicable federal and state standards applicable to manufactured homes.

(6) A manufactured home shall have a minimum size of seven hundred twenty (720) square feet and a minimum width of twelve (12) feet.

(7) No evidence of a manufactured home's trailer hitch or wheels shall be visible once it has been installed.

(8) One or more of the above criteria may be waived where the applicant demonstrates that:

(a) The manufactured home will be effectively screened year-round; or

(b) The installation of the manufactured home will not detract from the existing visual character of the neighborhood.

B. Manufactured home parks standards.

(1) The minimum lot area developed as a manufactured home park shall be twenty-five (25) acres and no more than fifty (50) acres. The entire parcel must have direct access from a county or state road. No portion of any park shall be within one-half (1/2) mile of another existing or proposed park.

(2) Each manufactured home lot shall contain at least seven thousand five hundred (7,500) square feet and be not less than seventy-five (75) feet wide. Each lot shall have a lot depth of at least one hundred twenty-five (125) feet, a front yard of at least twenty (20) feet, two (2) side yards of at least fifteen (15) feet each and a rear yard of at least thirty-five (35) feet.

(3) Each manufactured home lot will have at least seventy-five (75) feet of lot frontage on an internal access street and shall gain access therefrom.

(4) The site shall be well-drained, have such grades and soil as to make it suitable for the purpose intended and have an adequate stormwater drainage collection, piping and drainage system.

(5) Each manufactured home shall be provided with an adequate concrete or similar type walkway from the parking area to each mobile home. No manufactured home shall be closer than seventy-five (75) feet to any other manufactured home.

(6) All manufactured homes and any other structures related thereto shall be set back at least one hundred (100) feet from the right-of-way of any state or county road and at least one hundred (100) feet from perimeter property lines of the manufactured home park.

(7) A manufactured home park shall be provided two (2) means of access from a public street, each entrance no less than twenty-four (24) feet in width and paved. Al internal drives shall be paved.

(8) A manufactured home park shall be screened from the view of adjacent properties and public streets by peripheral landscaping containing hedges, evergreens, shrubbery, fencing or other suitable screening as approved by the Planning Board, with a minimum of six (6) foot high plantings.

(9) All utilities shall be underground.

(10) Such fire safety standards as shall be appropriate for the development shall be established.

(11) No exterior public address systems are allowed.

(12) There shall be documentation of the availability and adequate capacity of all utility providers to service the park. There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed. Sanitary sewer shall be provided and approved by the applicable review agency.

(13) Adequate provisions shall be made for outside storage space, and these shall not in any way interfere with emergency access.

(14) A centralized area for waste disposal shall be provided, and adequate provisions made to control nuisance situations such as accumulation of unused materials or vehicles.

(16) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided. A minimum of ten percent (10%) of the lot area or one-half (0.5) acre, whichever is

less, shall be devoted to this purpose.

(17) The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this chapter are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing and Urban Development regulations under the Manufactured Housing Act.

(18) The manufactured housing park shall be attractively landscaped in accordance with the standards of this Zoning chapter. A lighting and landscape plan shall be approved by the Planning Board.

§ 156-36.20 Dwellings above ground floor nonresidential uses.

A. Dwellings are permitted only within the upper stories of a building and not on the ground floor level.

B. Dwellings are permitted in a building that maintains nonresidential uses on the ground floor. In no event shall the ground level space be converted to residential space, and occupancy of the ground floor by nonresidential uses is required in order to maintain occupancy of upper level dwellings.

C. The maximum residential density shall be eight (8) dwelling units per acre. The residential density shall be calculated on the entire lot area regardless of the amount of lot area devoted to the ground floor nonresidential use(s).

D. The maximum building height shall be three (3) stories, or forty-two (42) feet, whichever is less.

E. The minimum habitable area of each dwelling shall be six hundred fifty (650) square feet and no less than one (1) bedroom shall be provided for each dwelling.

F. Access to the dwelling units shall be from a central hall or halls and dwellings shall have access to the outside of the building distinct and apart from the access to nonresidential uses on the ground floor.

G. Nonresidential uses shall be only those uses allowed as permitted uses or special uses within the zoning district in which the project is located. A separate special use permit shall be applied for and obtained, for any nonresidential use that so requires a permit.

H. To continue to be a valid special permit use, residential uses shall not be continued in any building not fully occupied by nonresidential uses on the ground floor. The special use shall expire where the ground floor has not been fully occupied by a nonresidential use for a period of one (1) year or

longer, and the residential uses shall be vacated.

I. Parking spaces for dwellings and nonresidential uses shall be provided in accordance with § 156-43 of this Zoning chapter.

§ 156-36.21 Multifamily dwellings.

A. Multifamily dwellings are subject to the following:

(1) A multifamily development is allowed on a property of at least ten (10) acres in the SMR zoning district. The maximum density shall be ten (10) dwelling units per acre in the SMR zoning district. The minimum habitable area of the dwelling shall be six hundred fifty (650) square feet. In the SMR zoning district, the Planning Board may allow multifamily dwellings on a smaller lot, but in no case shall the lot be smaller than ten thousand (10,000) square feet.

(2) For each dwelling unit there shall be provided a minimum of two (2) on-site parking spaces as defined in this chapter. However, for multifamily dwellings that are restricted to adults ages 55 and over, there shall be a minimum of one and one-half (1.5) on-site parking spaces for every dwelling unit. No parking space shall be located in a required front yard or within ten (10) feet of any side or rear lot line.

(3) The building height shall not exceed thirty-five (35) feet.

(4) Lot coverage shall not exceed forty-five (45) percent.

(5) There shall be a distance of at least fifty (50) feet between any building.

(6) No building shall exceed a length of one hundred eighty (180) feet.

(7) There shall be a perimeter building setback area of at least one hundred (100) feet on all sides of the parent lot on which the dwellings are to be located, except in the SMR zone, where the setback shall be fifteen (15) feet.

(8) Each single-family attached and semi-attached dwellings shall be located on its own individual lot.

(9) An area not less than three hundred (300) square feet per dwelling unit shall be improved with recreational facilities, such as swimming pools, tennis, basketball and other court games, playground or other recreational equipment for the use of the residents of the site and their guests. Such facilities shall not be operated for profit.

(10) In addition to the required three hundred (300) square feet per dwelling unit which shall be provided for recreational facilities for use by the residents of the site, the Planning Board shall assess the need for parkland as set forth in §156-85 of this Zoning chapter.

(11) A landscaped buffer area of at least twenty-five (25) feet in width shall be provided along all property lines and around all parking areas. Such buffer planting shall be maintained at a height of at least six (6) feet to satisfactorily screen the parking area.

(12) No multifamily development shall contain more than one hundred fifty (150) dwelling units.

(13) Adequate water supplies shall be made available the entire year for fire protection purposes. These sources may be pressured systems, cisterns or dry hydrants. The quantity available must meet NFPA Standard 1231 entitled "Standard on Water Supplies for Suburban and Rural Fire Fighting," primarily Tables 5-1.1(a) and (b). All water supply distribution points shall be readily accessible and so located that the maximum travel distance for fire-fighting apparatus shall not exceed 1,000 feet from distribution point to farthest delivery point.

§ 156-36.22 Planned mixed use development (PMUD).

A. Establishment and purpose. A planned mixed use development (PMUD) is a development approved by the Town Board, which shall result in one or more of the following benefits to the Town:

(1) Offer diversity in housing.

(2) Create usable open space and recreation areas and preserving natural areas.

(3) Conveniently locate businesses and services that can serve the proposed housing and offer conveniences to other neighborhoods in the Town. Said nonresidential uses shall be constructed concurrently with the residential uses.

(4) Promote economic development and encourage commerce in well-designed planned environs where uses within the development are compatible with each other and with adjoining uses.

(5) Provide for the efficient use of land and the placement of utilities and streets in ways that lower development costs and impacts.

(6) Implement the Town of Carmel Comprehensive Plan.

(7) Encouraging innovation not possible under strict application of subdivision and zoning regulations.

(8) Create a physically attractive and cohesive neighborhood by adhering to neotraditional design standards. The PMUD shall be guided by design guidelines prepared by the applicant and approved by the Town Board to regulate development within the PMUD.

B. Location standards.

(1) Location. The property shall be located within the PRD zoning district or a PMUD Overlay zoning district.

(2) Minimum site size. The property shall be no less than fifty (50) contiguous gross acres of land and shall have no less than two hundred (200) feet of direct frontage on Route 6 and direct vehicular access thereto. The Applicant can aggregate parcels provided they are in the PRD or MPUD Overlay zones and are contiguous.

(3) No more than one hundred fifty (150) gross acres of all lands zoned PRD may be approved as a PMUD.

C. Procedures.

(1) An applicant shall submit a special use permit application to the Town Board to establish a PMUD. The application shall be in writing and include a concept plan drawn at a scale which adequately identifies the data set forth herein. The application and concept plan shall include the following information:

(a) A conceptual layout showing the location of buildings and types of the various uses and their areas in acres and proposed open space and recreational areas. The mix of dwellings by size of dwelling unit, number of bedrooms, and dwelling unit type, and total gross floor area of same. The mix of nonresidential uses proposed on the concept plan and gross floor area of all nonresidential uses.

(b) Floor plans and elevations of the proposed buildings.

(c) A depiction of the proposed interior road and driveway system and proposed design of same. The Town Board may require submission of a traffic study to evaluate the impacts associated with development of the PMUD zone.

(d) Location, area and proposed ownership and use of open space.

(e) Description and concept plan for the provision of sewer service, water supply, stormwater management and other required utilities. The Town Board may require the submission of engineering studies and may require a hydrogeologic analysis to ensure adequate water supply is available to serve the project and that there shall not be any adverse impact on surrounding individual wells.

(f) Uses and ownership of abutting lands.

(g) A proposed phasing plan.

(h) A SEQRA analysis.

(i) Evidence the proposal is compatible with the goals of the Town of Carmel Comprehensive Plan and this Zoning chapter.

(j) A market and fiscal impact study, if required by the Town Board.

(k) Any other analyses, data or plans that the Town Board determines is necessary to assess the merits of the application.

(2) Upon submission of all the data set forth above, the Town Board shall forward the zone petition and concept plan to the Planning Board for its review. The Planning Board shall review the concept plan and related documents and render a report to the Town Board regarding the concept plan including any recommended revisions. An unfavorable report shall state clearly the reasons thereof and, if appropriate, advise the applicant what revisions would be required for the Planning Board to render a favorable report. A favorable report shall include any recommendations for changes or conditions with respect to the proposed concept plan. The Planning Board shall issue its report within sixty-two (62) days of receipt of a complete concept plan and application, except that the timeframe for issuance of a report may be extended upon mutual consent of the Town Board. The Town Board upon receipt and review of the report shall continue its review and consider the Planning Board's comments.

(3) The Town Board shall make such other referrals necessary including review by the Putnam County Planning Department and any other referrals as may be necessary pursuant to the regulations implementing the New York State Environmental Quality Review Act.

(4) Prior to rendering a decision on the application, the Town Board shall hold a public hearing in accordance with the notice requirements and other procedures set forth in § 256-35.

(5) Mitigation measures and conditions may be imposed by the Town Board as part of any PMUD

zoning amendment.

(6) Decision. The Town Board may approve, approve with conditions, or deny the special use permit. The Town Board shall make the following findings:

(a) The proposed uses will not be detrimental to present and potential uses in the area surrounding the PMUD including within the PRD zone.

(b) Existing road and highways are suitable and adequate to carry anticipated traffic associated with the proposed development and meet Town of Carmel road standards.

(c) Existing and future utilities are or will be adequate for the proposed development.

(d) The concept plan complies with the purposes of this chapter, the standards for general special use permits and is consistent with the Town of Carmel Comprehensive Plan.

(e) The concept plan will not have a significant adverse impact on the Town's natural resources including the quantity and quality of groundwater and surface waters.

(f) The Town Board shall consider the scale of the proposed buildings associated with the uses, their potential impact on community services, environmental resources, the visual environment and community character, and may limit the size of any buildings associated with a development within the PMUD.

(7) If approved, a site plan and/or subdivision plan shall be submitted to the Planning Board as required herein within one (1) year of receiving PMUD approval. If a site plan and/or subdivision plan is not submitted, the special use permit shall expire. The Town Board, in its discretion, may extend such timeframe by up to one (1) additional year.

(8) The Town Board may attach conditions to PMUD approval. If the PMUD has been approved by the Town Board and has received site plan and/or subdivision approval from the Planning Board, and is not substantially developed in accordance with the approved concept plan and site/subdivision plan within five (5) years of the effective date of the special use permit approval, and provided that it shall then appear that rights vested in persons acting in good faith in reliance on such zoning classification will not be prejudiced thereby, the Town Board, upon resolution and no earlier than sixty-two (62) days following written notice to the applicant and general publication in a newspaper of general circulation, may rescind the special use permit.

(9) Site plan/subdivision. The applicant shall submit a site plan and/or subdivision plan to the Planning Board for all or a phase of the development, in accordance with any phasing plan approved by the Town Board. The Planning Board shall review and render a decision on any subdivision plan or site plan in accordance with the standards regulating same. The Planning Board, upon receipt of a site or subdivision application, shall forward same to the Town Board for its review. The Town Board, as set forth below, may comment on the consistency of the plan with the approved PMUD, any conditions thereto, or the concept plan.

(10) Any plans submitted to the Planning Board shall conform substantially to the concept plan approved by the Town Board and any conditions established as part of the PMUD approval. The Town Board or the Planning Board may require that any application not substantially in conformance with the concept plan and PMUD approval be referred to the Town Board for review, and if required, approval of the Town Board. The Town Board may rescind the special use permit where it finds that the proposed site or subdivision application is not substantially in compliance with the concept plan unless the revised special use permit and concept plan is approved by the Town Board upon further review in accordance with the Zoning chapter and this §156-36.22.

(11) No building permits shall be issued for construction within a PMUD until all required improvements are installed or financial guarantees are posted in accordance with the procedures provided by the Town Subdivision chapter and this Zoning Chapter.

D. Design standards. These design standards shall be met as part of the concept plan and the site and/or subdivision plan.

(1) Maximum residential density. The maximum density shall be as follows, and there shall be no more than two hundred (200) dwelling units as part of any PMUD. The residential density shall be determined on the net lot area of the site devoted to the applicable uses:

(a) Single-family detached dwellings: One (1) dwelling unit per 20,000 square feet.

(b) Two family dwellings: One (1) dwelling unit per on 20,000 square feet.

(c) Single family attached (townhomes): One (1) dwelling unit per 15,000 square feet.

(d) Multifamily development: One (1) dwelling unit per 10,000 square feet.

(e) Dwellings above ground floor nonresidential uses: One (1) dwelling unit per one 10,000 square feet.

(f) The Town Board, in its discretion, shall approve the mix of dwelling units as part of the PMUD, provided the ratio of residential to nonresidential uses meets the requirements set forth below, and that in no case shall the maximum dwellings exceed two hundred (200) dwelling units. No individual type of dwelling unit set forth in subsections (a) through (e) above shall represent more than 30 percent of all dwelling units.

(2) Nonresidential development. The PMUD shall require the construction of nonresidential development as part of the PMUD. Restaurants, retail uses, personal service uses, and any use allowed within the PRD zone is allowed. The total gross floor area of areas dedicate to nonresidential use shall be equal to the total residential gross floor area of the site. The Town Board shall establish the allowable nonresidential uses as part of the PMUD.

(3) Phasing. Development within the PMUD shall be phased so that an equivalent amount of residential to nonresidential gross floor area is constructed during any phase. Phases shall not advance until the 1:1 ratio of residential to nonresidential area is met. Residential and nonresidential development shall be constructed concurrently.

(4) Maximum lot coverage and land disturbance. The total lot coverage for the entire property shall not exceed fifty percent (50%) of the total lot area. The concept plan shall show the proposed locations for buildings, and the Town Board shall establish the bulk standards for the PMUD as part of the special use permit. The Town Board may allow an increase in development coverage and decrease in open space, and upon a finding that there is sufficient open space and recreational areas available to serve residents of the PMUD within one-quarter (¼) mile of the site's boundaries. In no case shall lot coverage exceed sixty (60) percent.

(5) Utilities. All electric, telephone, telecommunications, and other service lines shall be underground. A PMUD zone shall be served by public or central water and sewerage systems.

(6) Parking. On-street parking on public highways or access roads within the PMUD shall not be permitted. The minimum required parking shall be established as part of the PMUD and shall be approved by the Town Board.

(7) Open space and recreation. No less than forty percent (40%) of the gross acreage of the site shall be preserved as open space. All areas of the site shall be landscaped by preserving existing vegetation, or by installing a combination of decorative and native plant materials. A recreational area no less than ten percent (10%) of the total gross lot area, exclusive of the area required for open space, shall be established, except that the Town Board may waive such requirement where the Applicant provides a fee in lieu of recreation in accordance with **§ 156-85** of the Zoning chapter. A landscaping plan shall be submitted as part of the site-specific site

and/or subdivision plan submitted to the Planning Board. The open space area may include the visual screening area set forth in this section.

(8) Landscape and design requirements. Landscape and facade design requirements to be incorporated in project covenants and restrictions shall be developed and submitted for approval. A landscaped planting screen of no less than seventy-five (75) feet in width shall be required along the border of the PMUD with any public road and plantings shall be installed at a minimum height of six (6) feet. Such screen shall be in place prior to the issuance of a certificate of occupancy and substantially screen proposed buildings in the PMUD from view within five (5) years of planting. Existing trees and vegetation shall be maintained wherever possible in such areas and supplemented with additional vegetation as may be necessary to accomplish screening objectives. All buildings, structures and land disturbances shall be set back a minimum of one hundred (100) feet from the exterior property lines, which distance may be increased by the Town Board as may be necessary to protect adjoining properties and preserve neighborhood character.

(9) Building heights. Structures within the PMUD shall not exceed a height of 42 feet, or three (3) stories.

(10) PMUD uses. The Town Board shall approve the allowable uses in the PMUD, which are limited to the following: any residential uses allowed as per this section, and any nonresidential uses allowed in this section or the PMUD.

(11) Ownership. The land proposed for a PMUD may be owned, leased or controlled either by an individual, corporation (or other legal entity) or by a group of individuals or corporations. PMUD applications shall be filed by the owner or jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners.

(12) The buildings and structures shall be compatible with the character exhibited within the surrounding environs, the character of the community and the natural surroundings. The Town Board shall review the architectural style of all buildings at the concept plan stage and shall review and approve the architectural style of the buildings and structures, taking into consideration the objectives set forth herein. Floor plans and elevations shall be submitted for review as part of the concept plan. The Town Board shall forward such plans to the Planning Board for its recommendations.

(13) The applicant shall demonstrate that adequate emergency service facilities and access are provided for the proposed use.

(14) The number of off-street parking spaces required to serve the development shall be calculated utilizing the applicable parking generation rates set forth in this Zoning chapter or within the most recent edition of the Institute of Traffic Engineers' publication, “Parking Generation” where the parking requirement for a specific use is not provided in this Zoning chapter. Parking areas shall be broken up and amply landscaped to avoid the creation and appearance of significant expanses of impervious surfaces.

(15) On-site lighting shall be designed and installed in a manner that minimizes visual impacts to the night sky. A lighting plan depicting the level and intensity of illumination within the site and at the property boundary shall be submitted to the Planning Board as part of a site and/or subdivision plan. Decorative lighting fixtures appropriate to a rural and rustic setting shall be incorporated into the overall design of the development.

(16) Transit. As part of the concept plan, the Town Board can require that a bus or transit stop be provided on-site to service the proposed residents within the PMUD.

(17) As part of the concept plan, the Town Board may require the inclusion of solar facilities, charging stations, or other green and/or renewable energy systems.

§ 156-36.23 Public utility installations.

Public utility installations shall be permitted, provided that:

A. Such uses shall be located, constructed, operated and maintained so as not to endanger the public or surrounding property.

B. Such uses shall be located on a lot of not less than the minimum area and shall adhere to the yard, lot coverage, building height and other relevant requirements of the zone in which it is located.

C. A landscaped buffer area at least twenty (20) feet in width and six (6) feet in height shall be provided and maintained along all property lines to satisfactorily screen public utility substations and any other buildings from surrounding uses of land.

D. One (1) off-street parking space shall be provided for each full-time employee, plus one (1) additional space for each service vehicle, but not less than two (2).

E. All applications for public utility installations shall be referred to the Environmental Conservation Board, the appropriate local Fire Chief and the Putnam County Health Department for their review and recommendation.

F. A cable television head-end facility shall be permitted on a parcel of land improved with other principal use or uses, provided that such parcel exceeds in area the aggregate area required for all such uses.

G. The Planning Board may waive or modify the requirement of a landscaped buffer area if it determines that the location of the proposed public utility installation will be satisfactorily screened from surrounding uses of land without the requirement of providing and maintaining a landscaped buffer area along all property lines.

§ 156-36.24 Recreation centers.

A. Purpose. It is the specific purpose and intent of this section to develop recreation facilities without the use of public funds, and that can supplement and complement municipal and school district facilities and contribute to the quality of life of residents of the Town of Carmel. Furthermore, it is the purpose and intent of this section to enable such applications to be heard and considered within the context of comprehensive planning that embraces the relationship of such facilities to surrounding properties, traffic conditions and environmental factors so as to protect and preserve property values, to ensure healthy and safe living conditions for individuals and to have more effective regulation and control of Town growth and development.

B. Standards. The following standards shall be met:

(1) The site shall have a minimum area of twenty (20) acres.

(2) The site shall have a minimum frontage of four hundred (400) feet on a county, State or Town street.

(3) Lot coverage shall not exceed twenty-five (25) percent.

(4) Buildings up to twenty-five (25) feet in building height and two (2) stories shall be set back a minimum of forty (40) feet from any property line.

(5) Outdoor fields and parking areas shall be set back a minimum of fifty (50) feet from all side and rear property lines and lighting, if installed, shall be situated so as not to illuminate across property lines onto adjoining parcels of land.

(6) All side and rear yards shall be provided with a suitable planting screen or fence of at least six (6) feet in height and twenty (20) feet in width and shall be appropriately landscaped and maintained. A natural buffer of at least thirty (30) feet in width shall be provided along the street line, except where the Planning Board determines that the intent of the screening

requirement is met by natural vegetation which shall be preserved for the life of the use.

(7) All buildings shall contain a fire suppression system.

(8) The placement and use of outdoor fields, outdoor lighting and parking areas shall be limited by the location on the lot, screening and/or buffering and location of adjacent residential development(s) and based on an evaluation of compatibility with and potential impact on adjacent property uses.

(9) The scale and maximum occupancy of meeting and exhibition space if provided in the center shall be limited by traffic impacts of public roads to be used for access, parking requirements and lot coverage.

(10) Minimum parking spaces to be provided shall be calculated based on the most intense proposed use of each of the facilities at any one time.

§ 156-36.25 Resort.

(1) One (1) or more principal buildings are permitted on a lot.

(2) Retail, office, or personal service business uses are permitted and shall clearly be accessory and incidental to the resort, shall be conducted in a principal building within which the guest sleeping rooms are situated, and shall not exceed ten (10) percent of the gross floor area of all principal buildings. Conference and meeting rooms are also permitted and shall occupy no more than fifty (50) percent of the gross floor area of all principal building(s) of the resort.

(3) The minimum lot area shall be twenty (20) acres for the first guest sleeping room, and one guest sleeping room for every five thousand (5,000) square feet of lot area thereafter.

(4) Accessory structures shall be set back fifty (50) feet from any lot line. Outdoor recreation uses shall be set back fifty (50) feet from any lot line, except that walking trails shall be located no less than twenty-five (25) feet from any property line unless said trail is connected to another trail located offsite, wherein no setback is required to achieve the connection. The Planning Board may require that notices be placed at the property boundary lines to ensure no off-site trespass occurs.

(5) Parking. The minimum parking requirements are as follows:

(a) For each guest sleeping room: one (1) parking space

(b) For each fifty (50) square feet of dining area: one (1) parking space

(c) For each two (2) seats in meeting rooms or group assembly areas: one (1) parking space

(d) For each 300 square feet of retail, office, or personal-service use: one (1) parking space

(6) No loading, truck parking, trash containers or outdoor storage area shall be located within one hundred (100) feet of an adjacent residential zone. All such areas shall provide visual and noise screening to minimize impacts on adjacent residential property.

(7) Signs.

(a) One identification sign is permitted at each entrance from the street. The maximum height shall be six (6) feet and the maximum sign area shall not exceed sixteen (16) square feet per sign face.

(8) Recreational vehicles and tents. Recreational vehicles, which may include travel trailers, camper trailers, motor homes and tents, are permitted accessory to a resort within a defined portion of the site. The number of recreational vehicles shall not exceed twenty five (25) percent of the total number of guest rooms in the resort lodge, except that the Planning Board, in its discretion, may allow additional recreational vehicles where it finds the property is sufficiently large to accommodate same, and further provided that in no event shall the total exceed forty (40) percent of all guest rooms. The following additional standards shall apply:

(a) The area shall be offered on a transient basis. Sites are rented on a daily or weekly basis or otherwise permitted by the owner to be used for camping on a temporary short-term basis.

(b) Individual plots where a recreational vehicle or tent is allowed shall be separated from principal buildings by a minimum distance of one hundred (100) feet. No recreational vehicle or tent platforms shall be located closer than fifty (50) feet to the street right-of-way or any adjacent property line. Each recreational vehicle or tent shall have a dedicated area to accommodate same of three hundred (300) square feet.

(c) No less than one (1) off-street parking space shall be provided on each plot, in addition to the site area provided on each lot for placement of the recreational vehicle or tent.

(d) All driveways shall be cleared, graded and improved to a twelve (12) foot width for one-way traffic and twenty-four (24) foot width for two-way traffic. Such driveways shall be improved to a year-round passable condition and include periodic speed bumps on each major tangent section to reduce speed.

(e) The application shall demonstrate adequate water supply and wastewater capacity, and shall obtain all permits and approvals by local, county, and/or state agencies.

(f) No less than twenty (20) percent of the gross site area of the recreational vehicle area shall be set aside and developed as common use areas for open and enclosed recreational facilities. No recreational vehicle site, required buffer strip, street right-of-way, cartway, storage area or utility site shall be counted as meeting this requirement.

(g) No parking, loading, or maneuvering incidental to parking or loading shall be permitted in connection with the recreational vehicle area on any public street, sidewalk, required buffer, right-of-way or any public grounds.

(h) The recreational vehicle area shall be used only for transient camping purposes. No improvement or living unit designed for permanent occupancy shall be erected. All recreational vehicles in the development shall be maintained in a transportable condition at all times, and meet all requirements that may be imposed by the State of New York. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilization purposes is hereby prohibited. Camping space shall be rented by the day, week or season or may be leased or purchased. No campground or RV area, except as provided above, shall be the primary and principal residence of the occupant, each campground or RV park lot to be used and occupied (excepting for occasional guests) for camping and recreational purposes only by a single household.

(i) The management of the resort shall be responsible for maintaining accurate records concerning the occupancy of all recreational vehicle and tent areas.

(j) No outside toilets shall be erected or maintained. Plumbing fixtures within any recreational vehicles placed upon lots in the campground or RV park shall be connected to the sewage disposal system for the development. Sanitary facilities, including toilets and showers, shall be provided in separate buildings located in the resort lodge.

(k) No noxious or offensive activities or nuisances shall be permitted. Such nuisances shall include, but not be limited to, noise which exceeds the limitations set forth herein; uncontrolled fires or repeated burning (except for camp fires) which results in soot, cinders, smoke, noxious fumes, gases or unusual odors emanating beyond the property line of the development.

(l) No animals shall be kept or maintained in any resort, except that the Planning Board may allow pets as part of any RV area. Appropriate waste disposal shall be provided.

(m) No person shall burn trash, garbage or other like refuse. All such refuse shall be placed and kept in airtight receptacles. No owner or occupant shall permit the accumulation of litter or refuse or junk vehicles.

(n) Picnic tables, benches, storage sheds, fireboxes or fireplaces and similar items of personal property may be placed within an RV area. All personal property on a campground or RV lot shall be maintained in good condition so as not to become unsightly.

(o) No recreation vehicle shall be parked on any street or road within the resort.

(p) Potable water drinking supplies shall be provided within three hundred (300) feet of each RV lot and be operational during any period of occupancy.

(q) Every RV area shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access.

(r) No loudspeaker or amplifying device shall be permitted in connection with any camp, campground, RV park or other use which can be heard beyond the bounds of the property lot where the use is located.

§ 156-36.26 Rod and gun club; hunting club.

(1) The rod and gun club shall be located on a lot with a minimum lot area of fifty (50) contiguous acres.

(2) No building or facility that involves the discharge of firearms shall be located closer than five hundred (500) feet to any property boundary, residential lot line, public trail or public park, public or private road, public right-of-way, publicly maintained road, or such greater distance as may be specified by the New York State Environmental Conservation Law, or other applicable laws or regulations. The Planning Board may modify the five hundred (500) foot requirement for existing rod and gun clubs applying for special use permits, with due consideration to buffering available to surrounding residential uses, the noise generated at such club and the degree to which noise impacts have been mitigated in order to protect the public health, safety and welfare.

(3) Rod and gun clubs shall implement the United States Environmental Protection Agency's Best Management Practices for Lead at Outdoor Shooting Ranges, using the most recent version of such manual.

(4) The discharge of tracer bullets is prohibited.

(5) Specific plans for public address systems and/or lighting for outdoor recreational facilities shall be submitted to and approved by the Planning Board, including the specific hours of operation for such facilities. Approval shall be preceded by a clear demonstration by the facility owner and/or operator that the features are both essential and will create no adverse effect on neighboring residential properties.

(6) No target range or other facility for the discharge of firearms shall be located closer than nine hundred (900) feet to any property boundary, public trail or public park, public or private road, public right-of-way, or publicly maintained road, or such greater distance as may be specified by the New York State Environmental Conservation Law, other applicable laws or regulations. The Planning Board may waive the nine hundred (900) foot requirement for existing rod and gun clubs applying for special use permits, with due consideration to buffering available to surrounding residential uses, the noise generated at such club and the degree to which noise impacts have been mitigated in order to protect the public health, safety and welfare.

(7) Except as may be further restricted by the Planning Board in its consideration of a specific application for a special use permit, hours of operation for the discharge of firearms at any rod and gun club obtaining a special use permit under this subsection shall be limited to the period from 9 AM through 6:00 PM on weekdays or Saturday and from noon to 6 PM on Sundays and state and federal holidays. No club activities involving discharge of firearms shall occur before sunrise or after sundown. Restrictions on the hours of operation shall not apply to hunting activities during New York State open seasons on wildlife species taken by gun.

(8) To protect the health, safety and welfare of the community, sound levels measured at the property boundaries of a nonconforming rod and gun club (hereinafter "gun club") shall meet any noise regulations promulgated by the Town of Carmel.

(9) In its review of a rod and gun club special use permit, the Planning Board may be guided by, but shall not be bound by, the recommendations of the NRA Range Source Book: A Guide to Planning and Construction, published by the National Rifle Association of America, or by state regulations and guidelines.

(10) No alcoholic beverages may be served in conjunction with club activities or social functions involving or held in conjunction with the discharge of firearms.

(11) The club activities shall be conducted exclusively for club members and their guests and shall not be available to the public on a daily fee or charge basis.

(12) Dogs shall not be kept or boarded on rod and gun club property.

(13) Hunting may be conducted on club property only in season in accordance with the provisions of Article 11, §§ 11-0903, 11-0905 and 11-0907, of the New York State Environmental Conservation Law and the rules and regulations adopted thereto.

(14) It is recognized that the operation of a rod and gun club in a residential neighborhood could have an adverse impact on the surrounding neighborhood. The extent of this impact will depend on factors such as the size of the property on which the club will be sited; the topography of the club property; the natural vegetation, screening and buffering existing on-site; the size of the club and the type and number of on-site activities involving the discharge of firearms; the location, layout and orientation of the various on-site club activities involving the discharge of firearms; the proposed hours of operation of the club; and the proximity of the club to existing residences. The Planning Board, in its discretion, shall consider said impacts in its determination in addition to the general standards established for special use permits.

(a) Notwithstanding that a rod and gun club is a special use, the Planning Board shall retain full discretion to deny a special use permit application for a rod and gun club if the Board determines that the use does not comply with the standards set forth in this subsection; does not comply with the general standards for special uses set forth in § 156-35, or will result in a significant adverse impact on the surrounding neighborhood in terms of increased noise, decreased public safety or diminution in property values, which cannot be adequately mitigated by the imposition of special permit conditions.

(b) In addition to the authority vested in the Planning Board to impose reasonable conditions and safeguards on special use permits, the Planning Board shall impose such conditions and safeguards on the operation of the rod and gun club which, in its discretion, may be necessary to mitigate such problems as noise, public safety and diminution of property values. The Planning Board shall, as a condition of each special use permit issued for a rod and gun club, require that the Building Inspector, on an annual basis, inspect the rod and gun club operation and report back to the Planning Board with regard to the permit holder's compliance with the provisions of this article, any special use permit conditions imposed and the requirements of the site plan approved by the Planning Board. Such restrictions and safeguards may include, but shall not necessarily be limited to, the following:

[1] Increased limitations on hours of operation and discharge of firearms.

[2] Increased setback requirements for certain activities involving the discharge of firearms.

[3] Requirement of vegetative screening, buffering and/or berming of target, skeet and trapshooting ranges and other rod and gun club activities involving discharge of firearms.

[4] Limitation or prohibition of certain activities involving discharge of firearms.

[5] Prescribed siting, configuration or orientation of activities involving discharge of firearms and/or storage of ammunition.

[6] A requirement that boundaries or a portion of the boundaries of the club property be enclosed in a prescribed manner.

[7] Limitations on the number of club members.

[8] The requirement of additional inspections of the property and operation by the Zoning Enforcement Officer with reports back to the Planning Board.

(15) Notwithstanding anything to the contrary, rod and gun clubs lawfully in existence as of the enactment of the Zoning chapter shall continue to be lawful nonconforming uses.

(16) In addition to those materials required as part of any application for a special use permit and site plan, an applicant for a rod and gun club special use permit shall submit the following additional materials:

(a) A declaration as to the nature and extent of the proposed rod and gun club operation.

(b) A description of all proposed club activities, including those which involve the discharge of firearms.

(c) Copies of the written membership qualifications, constitution and bylaws for the rod and gun club.

(d) The site plan materials required by Article X of the Zoning chapter, shall additionally include the location of all target shooting, skeet shooting and trapshooting ranges and other activities involving the discharge of firearms.

(e) A statement outlining the proposed hours of operation for all club activities and the proposed membership qualifications and number of members anticipated.

(f) Any other information or documentation requested by the Planning Board deemed necessary to assist in its decision-making process.

§ 156-36.27 Senior citizen multifamily dwellings.

A. Special use permit authorized. A special use permit may be granted by the Planning Board of the

Town of Carmel for senior citizen housing development subject to the provisions of this section. The applicant shall submit a recent (no earlier than 12 months from the date of application) market study indicating there are a sufficient number of senior households that would occupy the proposed number of housing units in the proposed price range (either purchase or rental) to assist the Planning Board in its review of the feasibility of the proposed project.

B. Standards for issuance of special use permit. In order to be considered for issuance of a special use permit, a building site must meet the following criteria, which shall be considered continuing conditions if and when a special use permit is issued:

(1) The minimum lot size shall be five (5) acres.

(2) The site shall have a minimum frontage of one hundred fifty (150) feet on a county, state or Town road.

(3) The site shall be served by central water and central sewer.

(4) A maximum of eight (8) dwelling units per acre shall be permitted.

(5) No multifamily senior citizen housing site shall contain more than one hundred fifty (150) dwelling units, and coverage of the lot by buildings shall not exceed thirty five (35) percent.

(6) All buildings shall be set back a minimum of forty (40) feet from any front property line.

(7) No building shall exceed forty (40) feet in height, and all buildings shall not exceed two (2) stories.

(8) All buildings shall contain an elevator unless access to each apartment is at grade level or they are one (1) story only.

(9) All buildings shall contain a fire suppression system.

(10) A minimum of three hundred (300) square feet of recreation space, which shall include a community room, shall be provided for each dwelling unit.

(11) A minimum of one and on-half (1.5) on-site parking spaces shall be provided for each dwelling unit (rounded up to next whole space), and handicapped parking spaces shall be provided in accordance with § **156-43** of the Zoning chapter.

(12) All units must be occupied exclusively by persons fifty-five (55) years of age or older, and the

spouse of any such person and/or the adult-dependent handicapped or disabled child of any such person.

(13) A minimum of 650 square feet shall be provided for one-bedroom apartments. The maximum number of bedrooms or potential bedrooms in an apartment/dwelling unit shall be three.

(14) The site shall be on a road that has a public bus route or within five hundred (500) feet of a road that has a public bus route.

(15) The site shall be within twenty-five hundred (2,500) feet of retail and service establishments at the time of its approval.

(16) Washing machines and clothes dryers shall be located either in individual apartments/dwelling units or in a common laundry room in each building.

(17) All requirements of the New York State Uniform Fire Prevention and Building Code and all applicable state, county and Town regulations shall be met. In addition, the design and construction of all units shall provide:

(a) Soundproofing having a rating of 45 dBA.

(b) Ramps not exceeding a grade of seven (7) percent.

(c) Exterior steps in groups of three (3).

(d) Windows with a doorstop and of sufficient size, as required by the provisions of the New York State Uniform Fire Prevention and Building Code, to provide for emergency rescue, if necessary.

(e) Doorways at least thirty-six (36) inches wide.

(f) Master keys for common entrance doors to apartment buildings (not individual apartments).

(g) All outside doors, not containing windows, shall be equipped with peepholes.

(h) Buzzer alarms located near the bed and bathtub for emergency use.

(i) Bathrooms shall be equipped with doors that swing both inward and outward for emergency access.

§ 156-36.28 Smoke and/or vape shops.

A. A smoke and/or vape shop shall be located no closer than twenty-five hundred (2,500) feet from any school, educational institution, or place of worship.

B. A smoke and/or vape shop shall not be located closer than twenty-five hundred (2,500) feet from any existing or proposed smoke and/or vape shop. Nothing herein shall be interpreted to allow cannabis sales in a smoke and/or vape shop.

§ 156-36.29 Veterinary hospital; animal kennels.

A. In considering the application for a special permit for a kennel or veterinary hospital, the Planning Board shall consider the number, size, breed and temperament of animals to be sheltered and impose reasonable conditions to protect adjoining uses, and safety of the animals sheltered in order to ensure the health, safety and general welfare of the community.

B. Animal waste shall be disposed of in a manner acceptable to the Putnam County and/or New York State Department of Health.

C. Crematoria or land burial of animals in association with a kennel or veterinary hospital shall be prohibited.

D. The minimum lot area shall be two (2) acres.

E. All outdoor facilities associated directly with the kennel or veterinary hospital shall be set back a minimum of one hundred (100) feet from any property line.

F. The Planning Board shall evaluate potential noise impacts and shall minimize negative impacts on adjacent uses, which may include the use of soundproofing.

G. The Planning Board may require screening of outdoor runs from view.

§ 156-37 through 39. Reserved.

Article VI Design and Environmental Standards

§ 156-40 General provisions.

This article consists of regulations, provisions and requirements that are supplementary to the regulations set forth in the Schedule of District Regulations. These supplementary design and environmental standards include but are not limited to requirements for signs, parking and loading facilities, landfill and other excavations, industrial performance standards and residential cluster development.

§ 156-41 Greenway connections.

By Local Law No. 3 of 2013, the Town of Carmel adopted the "Greenway Connections: Greenway Compact Program and Guides for Putnam County Communities," as may be amended from time to time, as a statement of land use policies, principles and guides. In its discretionary actions under this chapter, the reviewing agency shall consider the statement of policies, principles and guides set forth therein.

§ 156-42 Signs.

A. Purpose. The purpose of this section is to preserve, protect, promote, and advance the public health, welfare, and safety by regulating and establishing standards for the erection of signs within the Town of Carmel. These regulations and standards are content-neutral, which means that they are to be construed to promote no distinction between the topic discussed or the idea or message expressed on any signage. The Town's ability to attract economic development is accomplished in part by the enforcement of regulations that maintain an attractive community and streetscape, of which signs are a contributing element. A multiplicity of signs clutters the overall appearance of the Town, detracts from its visual quality, and is discouraged. The objective of promoting a visually attractive streetscape shall be balanced with the objective of ensuring that a property owner or tenant is afforded ample and adequate means of identifying the occupancy or use of a property or establishment and/or conveying information in accordance with these sign regulations.

B. Sign permit required.

(1) Unless otherwise permitted by this section, no person shall hereafter install, structurally alter, enlarge, or relocate a sign without a sign permit. No sign permit shall be issued except as shown on an approved site development plan or sign plan. The Planning Board may approve any sign shown on a site plan in accordance with the procedures set forth in Article X of this Zoning chapter. All signs requiring a sign permit and not reviewed by the Planning Board as part of a site plan or special use permit application shall be reviewed and approved by the Building

Inspector. A sign permit shall be issued only following submission, review and approval of a sign application and sign plan in accordance with the requirements set forth below, and payment of the required fee in accordance with the fee schedule established by the Carmel Town Board.

(2) A sign permit shall not be issued for a sign if any other sign on the same premises and in the same ownership has been determined to be in violation of this section.

(3) A sign permit shall not be required for the repainting or refurbishing of an existing sign when using similar colors, letters and signs. The determination of similarity shall be made by the Building Inspector.

C. Sign application. A sign permit application shall be submitted to the Building Inspector and shall include the following:

(1) A scale drawing of the sign which shows the content, colors, and proposed location of the sign.

(2) A drawing with appropriate notes, describing the construction of the sign and the method of attachment to a building or the ground.

(3) A description or sample of the materials of which the proposed sign will be made.

(4) A description of the proposed method of sign illumination, if any.

(5) Any other information deemed necessary by the Building Inspector to determine whether the sign is consistent with the regulations set forth herein.

D. Review.

(1) Time period for decision. At such time that the Building Inspector deems that a complete application has been submitted with the information set forth in subsection C above, the Building Inspector shall review all sign applications and approve, disapprove, or approve with modifications the application within thirty-one (31) days of receipt of a complete application. Where a sign is being approved in conjunction with a site plan or special use permit, the Planning Board shall review and approve signs in accordance with the time frames established for site plan and/or special use permit review and approval. The applicant shall submit to the Planning Board the sign information set forth in subsection C above.

(2) Criteria for sign plan approval. The Planning Board shall exercise discretion in approving signs in accordance with its powers and duties. The Building Inspector shall approve signs which clearly and convincingly meet the criteria and regulations of this section. If such sign or signs do

not clearly and convincingly conform to the criteria of this section, the Building Inspector shall deny the application and the applicant may pursue its remedies provided in this Zoning chapter. Where design standards for signs are set forth for individual special uses, the design standards for said use, if in existence, shall prevail.

(a) Accessory use. Signs must be clearly accessory to the uses on the lot on which they are located and are not permitted to be principal uses on a lot separate from the use they identify.

(b) Proportion and scale. The size and content of the sign shall be the minimum essential for legibility and for the provision of information. The scale of signs should be appropriate for the building on which they are placed and the area in which they are located. The size and shape of a sign should be proportional with the scale of the structure. For example, small storefronts should have smaller signs than larger storefronts.

(c) Quality. Signs shall be durable and weather resistant.

(d) Coordination with other signs. Signs located on a multi-tenant building shall be coordinated in design to avoid sign clutter. For buildings with multiple storefronts, signs located on individual businesses' storefronts should relate to each other in terms of locations, height, proportion, color, material and illumination. Maintaining continuity reinforces the building's facade composition while still retaining each business's identity.

(e) Colors. Colors shall not be garish. Contrast is an important influence on the legibility of signs. A substantial contrast should be provided between the color and material of the background and the letters or symbols to make the sign easier to read in both day and night. Light letters on a dark background or dark letters on a light background are most legible. Light letters on a dark background work best for both day and nighttime use. Neon and day-glo colors are not permitted.

(f) Coordination with building. Sign materials and colors should complement the materials and colors of the building on which the sign is situated or associated.

(g) Architectural elements and details, including historic building details. Many buildings in Carmel, particularly the hamlets, exhibit architectural elements and details. Signs should not cover or otherwise interfere with design elements that contribute to the building's character. Signs should not cover over architectural elements such as transom windows or vertical piers. Signs should fit into the building facade just as if they were one of the architectural elements. The building or storefront should be reviewed for its architectural

elements that suggest a location, size, or shape for the sign. These could include the lintel band above transom windows, an entranceway that needs signage to provide direction, or display windows.

(h) Typeface. A multiplicity of different typefaces on an individual sign is discouraged. The number of lettering styles that are used on a sign should be limited to improve legibility. As a general rule, limit the number of different letter types to no more than two for small signs and three for larger signs. Intricate typefaces and symbols that are difficult to read reduce the sign's ability to communicate and effectiveness.

E. Permitted signs not requiring a sign permit. The following signs are allowed and may be erected and maintained without a permit, provided that they comply with the regulations of this subsection E.

(1) Permanent signs:

(a) In all districts, two (2) signs not exceeding two (2) square feet in area.

(b) Governmental signs.

(2) Temporary signs in all districts, not to exceed eight (8) square feet in area:

(a) On-premise garage sale signs, provided the sign is erected on the property on which the sale is conducted and for a period not to exceed seven (7) days.

(b) Non-illuminated temporary "For Sale" or "For Rent' residential or commercial real estate sign concerning the premises upon which the sign is located. All such signs shall be removed within seven (7) calendar days after the sale, lease, or rental of the premises and must adhere to the maintenance requirements set forth in this section.

(c) Temporary, seasonal displays generally recognized or associated with national, state or religious holidays, except when displayed in connection with commercial promotion. Such displays include the outlining of a perimeter of a building or display window with lights, as long as the display lasts no longer than sixty (60) days.

(d) Political campaign signs pertaining to candidates for public office, political parties, public referenda, or other public issues. The Town of Carmel encourages that said signs be displayed no earlier than thirty (30) days prior to the relevant election or referendum and that they be removed no later than seven (7) days after such election or referendum. The Town encourages the candidate or his/her representative to designate

a contact name of the person(s) responsible for erecting and removing the sign(s) and supply same to the Town Clerk.

(e) Public notices. Notices posted by public officers or employees in the performance of their duties.

(f) Temporary banners, pennants, and related signs will be allowed in in conjunction with an open house or model home demonstration not to exceed a total of fifteen (15) days.

(g) Temporary banners or flags (concerning the premises upon which the banner or flag is located) promoting grand openings, seasonal messages when displayed in connection with commercial promotion, or special events hung on buildings or extended across sidewalks and/or streets (only approved by the Town Board), or parking lots, subject to Building Inspector notification. Said temporary signs shall be installed for a period not exceeding thirty (30) days. No temporary banner or flag as defined above, which is leased or rented for economic gain (including billboards), shall be erected, maintained, or displayed on a lot other than upon the premises whereon such sign is located.

F. Prohibited signs. Prohibited signs are signs that are not permitted in the Town of Carmel. Prohibited signs are as follows:

(1) Signs that revolve or otherwise move or which utilize flashing or blinking lights or multiple illuminating units which operate alternately.

(2) Signs which emit noise, sounds or smoke, including audio signs.

(3) Signs of a prurient or sexual nature or advertising businesses, commodities, or services of a prurient nature, which are offensive to the community.

(4) Signs made of cardboard, paper or similar impermanent material, except temporary signs displayed within a window area of a commercial use which shall not cover more than thirty-five (35) percent of any window area or placed so as to obstruct the view inside the building.

(5) No sign shall be placed, painted or drawn on utility poles, bridges or on other road, utility structures or signposts; or on trees, rocks or other natural features. No signs shall be placed on municipal property without the permission of the Town Board.

(6) No sign shall be erected, maintained or displayed which shall create a public hazard to health or safety by reason of the manner of its construction or placement or the nature of the materials used therein.

(7) No sign which is leased or rented for economic gain, including a sign commonly known as a billboard, shall be erected, maintained, or displayed, including those which advertise or promote any business, profession, interest or product on a lot other than upon the premises whereon such sign is situated. The Town of Carmel does not control or regulate billboards situated within any state highway right-of-way, provided a copy of the state approval is filed in the Building Inspector's office.

(8) Any sign that obstructs a sign displayed by a public authority for the purpose of traffic safety, instruction, direction or other information.

(9) Any sign that obstructs any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.

(10) Signs that cause direct glare into or upon a dwelling or other structure where persons live, are employed or conduct other activity where such glare would constitute a sustained nuisance.

(11) Unshielded and bare incandescent light sources on a sign. LED string lights where the bulbis visible from any public right-of-way.

G. Standards for signs accessory to nonresidential uses requiring site plan or sign permit approval.

(1) Number and Type of Permanent Signs. Schedule A regulates the number, size and types of signs allowed on properties within each zoning district in the Town of Carmel. A "P" indicates that the type of sign is permitted in the applicable zoning district. A "NP" indicates that the sign type is not permitted in the applicable zoning district.

SCHEDULE A **PERMITTED NUMBER AND TYPE OF SIGNS BY ZONING DISTRICT**			
Zoning District ►	C, OSR, NR, SMR, HR, MHP	NB, GC, CB, TC, MHC, PRD	BP, ED
Permitted Number of Permanent Signs per Lot*►	2	2	2
Sign Type▼			
WALL SIGN – A façade sign attached parallel to a wall and not projecting more than 6 inches from same, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall and building, and which displays only one sign face.	P	P	P

SCHEDULE A **PERMITTED NUMBER AND TYPE OF SIGNS BY ZONING DISTRICT**			
Zoning District ►	C, OSR, NR, SMR, HR, MHP	NB, GC, CB, TC, MHC, PRD	BP, ED
PROJECTING SIGN – Any sign other than a wall sign affixed to any building, structure or wall that is wholly or partly dependent upon such building, structure or wall for support whose leading edge extends beyond such building, structure or wall more than 6 inches or is constructed perpendicular to said building, structure or wall.	NP	P	NP
ICONIC SIGN – A façade sign projecting perpendicular from the wall of a building that is a pictorial symbol conveying the nature of a business, e.g., a barber pole, eyeglasses, boots, mortar and pestle. They are normally constructed in heavy relief or are three dimensional.	NP	P	NP
FREESTANDING SIGN– A sign supported by structures or supports that are placed on, or anchored in, the ground independent of any building and which may display up to two faces. A freestanding sign may be installed on one post, two posts on either side of the sign, or may be installed directly on the ground, i.e., a monument sign.	P	P*	P
FREESTANDING DIRECTORY SIGN – A type of freestanding sign that includes panels listing tenants in a multi-tenant building.	NP	P*	NP
WINDOW SIGN - A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, but not including graphics in connection with customary window display of products.	NP	P	NP
AWNING SIGN – A retractable or fixed shade-producing or weather-protection device made of flexible material, which is attached to a building or extends over a window or door identifying or advertising the business on premise.	NP	P	NP
Notes: *For any lot with a multi-use or multi-tenant building, one freestanding sign or freestanding directory sign is permitted for the building, and two signs (other than a freestanding or freestanding directory sign) shall be permitted for each tenant or use.			

(2) Design standards applicable to all signs.

(a) Illumination.

[1] Sign lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. Lighting shall be cast downward.

[2] Externally illuminated signs that project light onto the sign shall be permitted. The light source shall be shielded from direct view.

[3] Lighting shall be extinguished during times when the business is not in operation. Lights may be required to be placed on timers to ensure this requirement is met.

[4] Internally illuminated box lit signs existing on the effective date of the enactment of the local law amending this section may be continued, but any new box sign shall be prohibited.

[5] In the BP and ED zone only, buildings with light industrial and office uses are permitted back-lit signs with opaque, reverse channel letters or back-lit signs with dimensional Plexiglas letters. Where said use is situated adjacent to a residential use, timers shall be installed to control the hours of operation.

(b) Materials.

[1] Paper and injection molded plastic signs are not permitted.

[2] Raised surface-mounted letters of wood, steel, brass, stainless steel, bronze or PVC resin is preferred; sheet metal, finished plywood is permitted.

[3] Flat framed wooden signboards or synthetic resin boards with carved raised or recessed lettering or professionally-printed letters are permitted.

[4] Signs with gold-leaf lettering are encouraged.

(3) Wall sign design standards.

(a) Except in the BP and ED district, one wall sign per building or tenant is allowed on the façade facing a public street. The sign shall not conceal any part of a window and shall not extend above the roofline.

(b) Except in the BP and ED district, the maximum length of a wall sign shall not exceed seventy (70) percent of the length of the building façade fronting to the street or tenant's front façade, whichever is less. The maximum height shall not exceed two (2) feet.

(c) In the BP and ED district, one wall sign per building is allowed on the façade facing the public street. The maximum length of a wall sign shall not exceed seventy (70) percent of the length of the building façade fronting to the street, except that no wall sign shall exceed twenty (20) feet in length, nor shall the sign area exceed ten (10) percent of the total wall area of the building space to which the sign is associated.

(4) Projecting sign and iconic sign design standards.

(a) One projecting or iconic sign per building or tenant is allowed on the façade facing a public street. No projecting sign shall overhang the public way beyond a line four (4) feet from the building face, and its bottom shall not be mounted above the level of the second story windowsill. The sign shall maintain a minimum clearance of eight (8) feet from the ground.

(b) The maximum length shall not exceed four (4) feet. The maximum height shall not exceed four (4) feet.

(c) The maximum sign area shall not exceed twelve (12) square feet.

d) Projecting signs shall be securely installed. Where a projecting sign projects into the public right-of-way, approval may be conditioned upon the applicant holding appropriate liability coverage to hold the Town of Carmel harmless for any action associated with the sign.

(5) Freestanding sign and freestanding directory sign design standards.

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

(b) A freestanding sign is permitted in the front yard setback but shall not overhang a property line, driveway or walkway. The Building Inspector or Planning Board may consult with the Highway Superintendent or Town Engineer with regard to the placement of the sign to ensure adequate sight distance is maintained. No sign may interfere with required sight distances.

(c) The maximum height of the sign shall not exceed ten (10) feet from ground level to the top of the sign. The maximum length shall not exceed five (5) feet.

(d) The maximum sign area shall not exceed twenty-five (25) square feet per side.

(e) For a freestanding directory sign, each panel shall be the same dimension, no less than eight (8) inches, nor more than one (1) foot in height. The colors used for background and lettering shall be the same on each panel, and no more than three colors may be used. One panel may be larger than the remainder, but in no case shall the total of all panels exceed the maximum sign area.

(f) The posts to which a freestanding sign is mounted shall be stone or other masonry, metal, aluminum, wood, or resin with a minimum diameter of four (4) inches. Treated wood posts shall not be used unless painted, stained, or finished with clear polyurethane. Metal, including aluminum, posts shall only be permitted if said posts are constructed to appear like wood or other similarly natural materials, as reviewed according to the Planning Board and Building Inspector's discretion under this section. The top of the posts shall be decorative, either through an appropriate wood cut or use of finials.

(g) Signs shall be installed in a landscaped bed or box unless the Building Inspector determines that installation of the landscaped bed or box would interfere with traffic maneuvering or sight distance.

(6) Window sign design standards.

(a) One window sign is permitted per building or per tenant.

(b) In addition to a window sign, up to two (2) neon or LED signs may be permitted in the HB and NB districts only. The total sign area of the two neon/LED signs shall not exceed eight (8) square feet, and no individual neon/LED sign shall exceed five (5) square feet. Neon signs shall not outline the shape or form of any window to which it is attached.

(c) All signs within a window – permanent, neon, LED, and/or temporary - shall not exceed forty (40) percent of the total area of the window in which the signs are located.

(7) Awning sign design standards.

(a) An awning sign may be located above an entrance or window. The height of the skirt on the extension shall not exceed eight (8) inches. An awning sign may be permitted in addition to a wall or projecting sign.

(b) Awnings shall be constructed of a material which shall be rot, weather, and abrasion resistant.

(c) Awnings with a single, solid color are permitted. Awning colors shall complement the colors of the building. Colors that call more attention to the awning than the building are inappropriate. Preferred colors include forest green, maroon, dark blue or black.

(d) Where awnings have been installed previously on a building, the Building Inspector may require that the same shape or color of awning be installed.

(e) Awnings should be designed to project over individual window and door openings (i.e., mounted in the reveals of openings). Awnings that are a continuous feature, extending over several windows, doors, masonry piers, or arches, are not permitted.

(f) Where an awning projects into the public right-of-way, approval may be conditioned upon the applicant holding appropriate liability coverage and holding the Town of Carmel harmless.

(8) Miscellaneous sign requirements.

(a) Wall murals. A wall mural may be permitted at the discretion of the Town Board and is not subject to the maximum sign requirements set forth in Schedule A.

(b) Banners in public rights-of-way. Banners, flags, and other temporary signs advertising seasonal events, e.g., a farmer market, are subject to approval of the Town Board.

H. Temporary signs. Unless exempt under subsection E, signs to be erected for short duration require sign permits which indicate the dates during which the signs may be displayed.

(1) Such signage shall not consist of a sign prohibited by subsection F.

(2) Such signage shall not exceed sixteen (16) square feet in total area.

(3) Such signage shall not be displayed by an activity or business for more than sixty (60) days total in any one (1) calendar year on any one property. A new permit may be issued after expiration of a prior permit with Town Board approval, which will include new dates during which the sign may be displayed.

(4) Portable signs may be allowed with a permit but are not to exceed placement for longer than sixty (60) days total per year.

(5) No lighting of temporary signs is permitted.

(6) No more than one (1) temporary sign permit may be granted to or be in effect for an applicant at any one time.

(7) Permits for temporary signs pursuant to a site plan will be reviewed and approved by the Planning Board.

(7) Permits for temporary signs, outside of a site development plan, will be approved and issued by the Town Board, provided that the guidelines and requirements of this section are followed.

(8) Any sign not removed in the time provided for above is a violation of this law. Each day such violation continues is deemed a separate and distinct violation.

I. Maintenance and repair required. All signs must be maintained in a safe, presentable, and structurally sound condition at all times. This includes keeping the sign clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring or loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety. In the event of violation of any of the foregoing provisions, the Building Inspector shall require its removal in accordance with subsection J below.

J. Enforcement; removal and disposal of signs.

(1) The Building Inspector of the Town of Carmel is hereby designated as the officer for the enforcement of the provisions of this section and is authorized to bring such criminal or civil proceedings at law in the Town Justice Court or otherwise on behalf of the Town of Carmel as may be necessary to compel compliance, or to pursue any other remedies available under this chapter or the laws of the State of New York.

(2) Removal and disposal of signs. In addition to and not in lieu of other remedies and penalties for Zoning chapter violations, unlawful, dangerous, or ill-maintained signs may be removed by the Town pursuant to the provisions below.

(a) The Building Inspector shall cause to be removed any sign that endangers the public safety. If the Building Inspector shall find that any sign regulated by this section is unsafe or not properly secured, or is a menace to the public, written notice shall be given to the named owner of the sign and the named owner of the land upon which the sign is erected, who shall remove or repair said sign within ten (10) days from the date of said notice. If the sign is not removed or repaired, the Building Inspector shall revoke the permit issued for such sign, as herein provided, and may, subject to procedures that must comply with due process, remove or repair said sign and shall assess all costs and expenses incurred in said

removal or repair against the land or building on which such sign was located. The Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.

(b) Any sign existing on or after the effective date of this section which is no longer accessory to an existing activity on the premises shall be removed within sixty (60) days after the use has ceased operation or upon written notice of the Building Inspector as set forth in subsection (a) above. The Building Inspector, upon determining that any such sign exists, shall notify the owner of the premises in writing to remove said sign within thirty (30) days from the date of such notice. Upon failure to comply with such notice within the prescribed time period, the Building Inspector is hereby authorized, subject to procedures that must comply with due process, to remove or cause removal of such sign, and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located.

(3) Civil penalties. Civil penalties for any violation of this section may be pursued pursuant to this Zoning chapter.

(4) Injunctive relief. An action or proceeding in equity may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Article or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit, order to remedy, or other notice or order issued by the Building Inspector pursuant to any provision of this Article, pursuant to this Zoning chapter. In particular, but not by way of limitation, where the construction or use of a sign or sign structure is in violation of any provision of this Article, or any stop-work order, order to remedy or other order obtained under the Code or this chapter, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having jurisdiction, to obtain an order compelling the removal of the sign or sign structure or an abatement of the violations of such provisions. No action or proceeding described in this subsection shall be commenced without authorization by the Town Board.

K. Nonconforming signs. It is the express intent of this section to supersede General Municipal Law § 74-C pursuant to § 10(d)(3) of the Municipal Home Rule Law. Permanent signs that do not conform to this chapter and that were legally in existence prior to the effective date of this chapter or any amendment thereof that makes the sign noncompliant shall be permitted to continue as set forth below:

(1) Any nonconforming sign, lawfully existing on the effective date of this section, may continue indefinitely, except if such nonconforming sign is discontinued, removed, not maintained or

structurally altered for any reason, or is deemed by the Building Inspector to be irreparably dangerous or defective, such exemption period shall terminate and shall result in the immediate removal of the nonconforming sign.

(2) Billboards and box signs. Billboards and box signs in existence on the effective date of this section shall be allowed to continue. Once removed, box signs and billboards shall not be re-established. The installation of new billboards and box signs is prohibited.

§ 156-43 Off-street parking and loading.

A. Off-street parking requirements. Off-street parking spaces, open or enclosed, are permitted accessory to any principal use, subject to the following provisions:

(1) Schedule of parking requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for uses as specified herein. Any land developed as an integrated project under common ownership and control shall be considered a single lot for the purpose of these parking regulations. Documentary proof of parking cross-easements is required. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed in this section shall be determined by the Planning Board upon consideration of all factors related to the parking needs of each such use.

(2) Areas computed as parking spaces. A private garage, carport, or other area available for parking, other than a street or driveway, may be computed as an open or enclosed off-¬street parking space. A driveway within a required front yard for a single-family detached, single-family attached, or single-family semi-attached, or two-family dwelling may count as one (1) parking space, provided a minimum driveway length of twenty-five (25) feet is available for said space. No parking space shall be located on that portion of a corner lot within the sight triangle.

(3) Size of spaces. The minimum parking stall width for a perpendicular parking space shall be (9) feet and the minimum length shall be twenty (20) feet, except that the size may be reduced to eighteen (18) feet where a bumper or parking stop is provided. No parking space shall result in a vehicle overhanging a sidewalk or walkway. Entrance and exit lanes shall not be computed as parking spaces except for driveways for residences as set forth in Subsection A(2) herein. In the event an existing commercial property within the HMC zoning district cannot conform to these standards because of lot size, configuration and/or topography, owners of such properties may apply to the Building Inspector for the waiver of requirements of this subsection (3) and subsection A(1), provided that such waiver does not jeopardize public health, safety, and general welfare, and provided that such waiver does not violate Building Code, Fire Code, or any other building or safety regulation that may apply. The Building Inspector may confer with

the Town Engineer and/or Highway Superintendent in determining whether to grant such waiver.

(4) Access.

(a) Unobstructed access to and from a street with an internal on-site turnaround area shall be provided. Such access shall comply with the requirements set forth in this section.

(b) No entrance or exit for any off-street parking area shall be located within seventy-five (75) feet of any street intersection unless waived by the Planning Board. The Planning Board may waive this requirement as part of site plan or subdivision review and approval, provided that it is demonstrated to the satisfaction of the Planning Board that vehicles can safely exit a parking space due to low volumes of traffic on the road to which the driveway shall obtain primary access.

(c) No off-street loading or off-street parking area or part thereof for three (3) or more vehicles shall be closer than ten (10) feet to the property line on which it is located where it adjoins a dwelling, school, hospital or other institution for human care.

(d) Any driveway accessing a parking or loading area located contiguous to a street shall be provided only through driveway openings through the curb installed along the street line and located and constructed in accordance with specifications prescribed by the Town, county or state, whichever has jurisdiction.

(e) No access drive or driveway in any residential district shall be used to provide access to uses other than those permitted in such residential district.

(5) Drainage and surfacing. All parking areas, loading areas and driveways shall be properly drained and paved, except that parking spaces or driveways accessory to single-family dwellings served by individual driveways may be constructed of properly compacted gravel or crushed stone where any portion of said area does not exceed five (5) percent slope. The Planning Board may require alternative dustless surfaces for other uses based on the characteristics of the use and the character of anticipated parking usage, e.g., regular versus overflow parking.

(6) Joint facilities. Required parking spaces, open or enclosed, may be provided in parking areas designed to serve jointly two (2) or more uses whether or not located on the same lot, if the number of required spaces in such joint facilities is not less than the total required for all such uses.

(7) Shared spaces. The Planning Board, during site plan review, may approve the elimination of a

portion of the required parking and allow for the shared use of parking spaces, provided that the Planning Board finds that the number of spaces to be provided will substantially meet the intent of this section by reason of variation in the probable time of maximum use by patrons and/or employees of the separate uses and provided the total number of spaces that would be required is reduced by no more than thirty (30) percent. In such event, hours of operation may be imposed by the Planning Board as a condition of site plan approval and may be so noted by map note and by reference to Planning Board resolution on the certificate of occupancy issued with respect to the premises. The Planning Board may require that an unimproved reserve area be set aside to meet the full requirement for parking as per subsection "C" below.

(8) Location and ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory, unless considered a joint facility under subsection (6), provided that all spaces therein are located within two hundred fifty (250) feet of the nearest lot line of the lot that the parking serves. In all cases, parking spaces shall conform to all the regulations of the district in which they are located and in no event shall such parking spaces be located in any residential district unless the use to which the spaces are accessory is permitted in such residence district. Such spaces shall be in the same ownership as the use(s) to which they are accessory and shall be subject to an easement or deed restriction, approved by the Planning Board, and binding upon the owner and his heirs and assigns who shall maintain the required number of spaces so long as the use to which they are accessory exist, or until such spaces are provided elsewhere in conformity with the provisions of this section.

B. Parking on lots divided by district boundaries. Where a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that no such parking spaces shall not be located in any residence district unless the use to which they are accessory is permitted in such district.

C. Postponement of full improvement of off-street parking. The Planning Board may allow an applicant to postpone the construction of parking facilities where the Board determines that there is some uncertainty as to the parking demand for a particular use, or that the immediate provision of parking would require the significant alteration of natural topography or disturbance to wooded sites. Where the Planning Board determines that the immediate use of any property may not require the full initial improvement of all off-street parking or loading facilities, it may waive the initial improvement of not more than forty percent (40%) of the required number of spaces. The unimproved area shall be shown on the approved plan to be reserved for future parking facilities. The Planning Board may require that the reserve area be graded for parking in accordance with the approved plan. All reserved parking areas, if graded, shall be landscaped in accordance with an

approved landscaping plan. Reserved spaces shall be improved within six (6) months of the date of a written notice from the Code Enforcement Officer that such spaces have been determined to be necessary. Appropriate written guarantees to the above shall be provided by the applicant and approved by the Town Attorney. The Planning Board may require that a performance guarantee or other surety be posted to ensure the completion of said reserve parking, if so required.

D. Cross access. The Planning Board, as part of site plan approval, may require that shared access among various uses and properties be provided where aid access would improve traffic safety and limit the number of curbs cuts and access points onto a road, especially where said access points cross sidewalks or trails.

E. Loading. A loading space shall be at least twelve (12) feet wide and thirty-five (35) feet long exclusive of circulation aisles and shall have headroom of fourteen (14) feet if enclosed.

F. Screening. Off-street parking areas for three (3) or more vehicles and off-street loading areas adjoining residences or residential districts shall be screened as approved by the Planning Board. The screening shall be on the side or sides which adjoin or face premises in any residential district, residentially improved lot or institutional premises, such as schools, hospitals, nursing homes, etc.

G. Accessible parking spaces shall be provided as required by the New York State Building Code.

H. All off-street parking areas shall be designed so as to ensure maximum safety for both vehicular and pedestrian traffic and shall include all necessary traffic flow control devices, including raised islands, bumpers, etc., to establish a safe and orderly traffic flow.

I. Off-street parking spaces.

Schedule of Required Off-Street Parking Spaces	
Land Use	**Minimum Off-Street Parking Spaces Required**
Dwelling, single-family	2 spaces per dwelling
Multifamily dwellings	See § 156-36.21
Multifamily dwellings, senior citizen	See § 156-36.27
Dwellings in the Hamlet Mixed Use Centers	See § 156-36.13
Apartments above ground floor uses	1 space per efficiency and one bedroom unit; 1.5 spaces per 2-bedroom unit; 2 spaces per 3 and more bedrooms; plus 1 space per 3 dwellings for visitors
Agricultural operations	To be determined by the Planning Board

Schedule of Required Off-Street Parking Spaces	
Land Use	**Minimum Off-Street Parking Spaces Required**
Animal kennel	1 space per 300 sf gfa
Art gallery; entertainment production studio	1 space per 250 sf gfa
Automobile service station	1 space per 100 sf gfa of convenience area, plus one per employee on largest shift
Automotive repair facility	
Auto sales and showrooms	1 space per employee, plus 1 per 500 sf gfa
Banks and financial institutions	1 space per 300 sf gfa
Bars, taverns	1 space per 50 sf gfa
Contractor establishment; wholesale storage and distribution, including lumberyards; landscape materials, retail and wholesale	1 space per 500 sf gfa
Custom workshop or studio	1 space per 300 sf gfa
Day camp	1 space per employee on largest shift plus 1 space per 3 persons enrolled
Day care; day nursery	See § 156-36.10
Day spa	1 space per 200 sf gfa
Places of worship, movie theater, auditoriums, stadiums or similar places of assembly; cultural and performing arts center	1 for each 3 seats or, where capacity is not determined by the number of fixed seats, 1 per 40 square feet of floor area devoted to patron use
Farm market; health food store and market; grocery store	1 space per 300 sf gfa
Fitness facility	1 space per 300 sf gfa
Fuel storage	1 space per employee on largest shift
Fraternal, social, civic or other semipublic club buildings.	1 space per 200 sf gfa
Funeral establishment	1 space per 250 sf gfa
Horse boarding operation	1 space per employee on largest shift, plus one space per 5 horses boarded
Hospitals	1 space per bed
Hotel, boutique hotel, resort	1 space per guest room plus one half the spaces required for accessory uses such as restaurants
Indoor pistol range	1 space per employee, plus 1 space per stall/booth
Municipal or other governmental uses	1 space per 250 sf gfa
Museum	1 space per 600 sf gfa

Schedule of Required Off-Street Parking Spaces	
Land Use	**Minimum Off-Street Parking Spaces Required**
Nursing homes	1 space for each 3 beds
Personal service; drycleaning	1 space per 300 sf gfa
Retail, florist and gift shop; hardware store	1 space for each 250 square feet of gross floor area
Riding academy	1 space per employee, plus 1 space per 3 students enrolled
Designed shopping centers	1 space per 200 sf gfa
Home occupation	As required for the dwelling
Nightclub	1 space per 50 sf gfa
Wholesale, warehouse, storage, heavy commercial establishments	1 space per 1,000 sf gfa
Light industry; distribution and light assembly of medical equipment and supplies; pharmaceutical and health sciences; research laboratories; data processing and computer centers; fuel storage; metal working and machine shops	1 space per 400 sf gfa
Office, medical	1 space per 200 sf gfa
Office, professional and business	1 space for each 300 square feet of gross floor area
Trade or vocational school	1 space per 3 seats, plus 1 space per employee on largest shift
Golf and country clubs	10 spaces per golf hole
Tennis clubs	2 spaces court
Swim clubs	1 space for each 3 memberships
Recreation center	
Baseball batting facility	1 space per station plus 1 per employee
Fields, baseball, football, soccer, etc.	10 spaces per each acre of lot area
Golf driving range	1 space per tee plus 1 per employee
Indoor wall or rock climbing facility	1 space per 250 sf gfa
Meeting room	1 space per 150 sf gfa
Miniature golf and putting course	1 space per hole/station plus 1 per employee
Pool	1 space per 50 square feet of water surface area plus 1 per employee
Skating rink	1 space per 100 square feet of rink area plus 1 per employee

Schedule of Required Off-Street Parking Spaces	
Land Use	**Minimum Off-Street Parking Spaces Required**
Squash, handball, racquetball and similar courts	0.5 space per court
Tennis courts	2 spaces per court
Restaurant, sit down	1 space per 3 seats
Restaurant, sit down	1 space per 30 square feet of gross floor area in quick-food establishments
Retail uses, antique shop	1 space per 200 sf gfa
Self storage warehouse	1 space per employee, plus 1 per every 10 storage units
Public utility installations	See 156-36.23
Veterinary hospital	1 space per employee, plus 1 space per examination room
Winery, brewery, distillery; craft beverage establishment	1 space per 50 square feet of tasting, retail and customer service area, plus 1 space per employee on largest shift
All other nonresidential uses	As determined by the Planning Board using parking standards promulgated by the Institute of Transportation Engineers, American Planning Association, or similar industry standards.
sf – square feet gfa – gross floor area	

J. Off-street loading spaces.

Schedule of Off-Street Loading Spaces Required

Land Use	**Off-Street Loading Spaces**
Apartment houses	1 for each building
Schools	1 for each building
Hospitals	1 for each 50 beds
Undertakers	1 for each 5,000 square feet of floor area
Retail stores	1 for each establishment
Designed shopping centers	3 for the first 50,000 square feet plus 1 for each additional 50,000 square feet
Wholesale, storage, distributive and other industrial establishments	1 for the first 10,000 square feet of gross floor area, plus 1 additional for each additional 20,000 square feet or fraction thereof of gross floor area

K. The minimum width of access aisles shall conform to the following requirements:

Schedule of Parking Aisle Width

Parking Angle	Width One-Way (feet)	Width Two-Way (feet)
0°, parallel	12	24
30°	14	24
45°	14	24
60°	18	24
90°, perpendicular parking	24	24

L. Commercial vehicle parking accessory to detached single-family dwelling. The parking by the owner/occupant of not more than one commercial vehicle. The term "commercial vehicle" is defined as a vehicle bearing commercial license plates excluding vans and pickup trucks and including all buses. Such commercial vehicle shall not exceed a gross motor vehicle weight of 15,000 pounds or have more than one rear axle or exceed 25 feet in length. Nothing contained herein shall prevent the temporary normal rendering of construction and maintenance services by commercial vehicles to single family detached dwellings, e.g., well drillers, landscapers, movers, delivery trucks and the like.

§ 156-44 Historic buildings.

No exterior part of any building or structure that is listed or is eligible for listing on the National or State Registers of Historic Places or listed as a Town landmark if such listing exists shall be altered or demolished until the Planning Board shall approve an application and plans for such changes to the exterior architectural features which are visible from a public street or place. The Planning Board shall rely on records available from the New York State Department of Parks, Recreation and Historic Preservation in determining which structures have been listed or are eligible for listing.

§ 156-45 Landscaping and buffers; lighting requirements; art fixtures.

A. Landscaping and buffers.

(1) General. Landscape materials shall be utilized in a positive manner in all developments for purposes of architectural enhancement, screening, privacy control, erosion control, and reduction in environmental nuisances including noise. All areas of a lot not left in a natural state and not developed with buildings, driveways or other impervious surfaces shall be maintained continuously in a dust-free condition by installing suitable landscaping, including trees, shrubs, grass or other ground cover, or by providing a stable pervious surface, such as pervious pavers,

gravel, crushed rock or similar material. Landscape treatments shall minimize soil erosion and stormwater runoff and provide necessary screening as set forth herein.

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

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

(b) A landscape plan shall be prepared by a New York State licensed and/or registered landscape architect or similarly qualified NYS-licensed qualified professional. The Planning Board, as a condition of approval, may require that the landscape consultant periodically inspect the construction and installation of landscape materials.

(c) A landscape plan shall include plant selection suitable to the conditions of the site. Plant specimens native to the region are to be used to the greatest extent practicable.

(d) Within the area of proposed disturbance, the location of trees with a diameter of eight (8) inches or greater measured at chest height ("dbh") shall be indicated on the plan. The tree specimen and its conditions shall be noted on the plan. Healthy trees eight (8) inch dbh shall be preserved to the maximum extent practicable.

(e) For areas near roads, plants shall be selected according to their hardiness and ability to withstand highway salt conditions or snow "throw" compaction.

(f) In parking lots, landscape medians to receive plant materials shall have a minimum inside width of five (5) feet, except that, where vehicle overhang is permitted, an inside width of ten (10) feet shall be required.

(g) Approved mulch shall be spread within a landscaped space at a level not to exceed one and one-half (1½) inches below top-of-curb, and at a depth of not less than three (3) inches. Mulch shall be placed in all planting beds to a minimum three-inch depth. Mulch may consist of clean wood chips, pine bark, peat moss, stone aggregate, or other approved material. As a general guideline, mulch shall be clean, homogeneous, attractive, and self-matting so that it does not blow in the wind.

(h) Areas that will receive continued pedestrian movement shall be paved. Paving can be cast-in-place concrete, stamped concrete, or precast concrete unit pavers set in an approved

setting bed. Bituminous concrete or asphalt walks are not acceptable.

(i) The landscape design shall incorporate plantings that enhance the visual appearance of the property. Plantings to be selected should include those that blend well visually with the surrounding natural environment and provide year-round seasonal visual interest.

(j) Attention to environmental objectives and energy conservation, as well as design value, should be evident in the landscape plan. Environmental applications for plantings can include, among others, air filtration, temperature modification, natural slope stabilization, provision of edible fruit bearing plants, the use of NYSDEC recommended wetland plants in wetland buffer areas, etc.

(k) Plantings of all types shall be completed only at such times as weather and soil conditions are favorable for seed germination, plant establishment and subsequent growth. Generally, such conditions occur between April 1st and June 1st and between August 20th and October 15th. However, conditions vary for different plants and different years. Accepted horticultural practices shall be followed.

(l) Extreme care and caution shall be exercised in grading operations around existing trees scheduled for preservation. Protective tree fencing shall be placed around the tree(s) at or beyond the dripline(s). Cuts within the dripline, or the addition of 12 inches or more of fill, can result in tree mortality and shall be avoided to the maximum extent practicable.

(m) Tree wells are encouraged where grading necessarily comes in close proximity to trees. In areas of fill, the tree well should be concentric to the dripline, and of a diameter at least half that of the dripline. In areas of cut, the tree well should also be concentric to the dripline but should be of a diameter at least equal to that of the dripline. In cases where grade changes affect only one side of the tree, partial tree wells are acceptable.

(n) The use of earth berms and other grading techniques is allowed, especially on flat sites or in locations where screening is warranted or necessary. The height, size and width of the berm shall be suitable for the intended plantings and shall fit with the character of the overall proposed design of the site.

(o) The use of flowering annuals and perennials is encouraged in areas close to pedestrian movement and shall receive frequent maintenance.

(p) A mix of plant materials, sizes, habits and textures shall be selected for each planting plan. Over-planting of any one species shall be avoided. The use of native species is encouraged.

The use of exotic species shall be avoided to the maximum extent practicable.

(q) Construction practice and planting specifications should follow ANSI Z60.1 American Standards for Nursery Stock or equivalent.

(r) All plantings shown on an approved landscape plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with the specifications of the approved plan. Substitutions are subject to review by the Town and the Building Inspector may refer substitutions to the Planning Board.

(s) Erosion and sedimentation controls shall be provided and designed in accordance with the New York State Department of Environmental Conservation Best Management Practices.

(3) Screening. As a condition of approval, the Planning Board may require that a screen be established to minimize views of facilities, buildings and parking areas associated with nonresidential uses from adjoining residences and the public right-of-way. Transformers, gas meters, dumpsters and similar appurtenances shall also be screened. Plantings shall be indicated on the site plan or subdivision plat and shall meet the following standards:

(a) Coniferous trees and shrubs shall be installed to provide year-round screening at a height and spacing appropriate to the species, and which will adequately screen views within five (5) years of installation. In general, coniferous trees shall be installed at a planting height no less than six (6) feet, and for shrubs planting height should be no less than four (4) feet. The plant spacing shall be specific to the plant materials being installed.

(b) A wall, fence (finished side out), or earthen berm may be substituted for, or required in conjunction with, planting materials, upon approval of the Planning Board. The Planning Board shall establish conditions on the location, height and design of same.

(4) Required nonresidential buffer. Any rear or side lot line of a lot in nonresidential use or proposed for nonresidential use shall be screened year-round from adjacent lots by a buffer at least six (6) feet in height and at a width and density which will substantially screen adjacent properties from the glare of headlights, light from structures, noise and movement of people, vehicles and equipment, but in no case less than ten (10) feet in width. The buffer may consist of a fence, trees, shrubs, bushes or combinations thereof.

(5) Waivers. Where existing topography or vegetation or other circumstance provides adequate landscaping or screening which warrants an exception to the strict application of standards in this section, the Planning Board may waive the landscaping or screening requirements set forth

in this section.

B. Outdoor lighting standards.

(1) Purpose. It is the purpose of this section to regulate the installation of outdoor lighting in order to minimize light pollution in the Town of Carmel by:

(a) Providing standards for outdoor lighting;

(b) Promoting energy efficient and sustainable lighting practices and luminaires by using fixtures with optical controls that distribute light in the most effective and efficient manner;

(c) Minimizing adverse off-site impacts from new and existing lighting installations by using shielded or downward facing outdoor light fixtures where required and wherever feasible;

(d) Further assuring that the light generated by outdoor fixtures does not extend beyond the property line of the property from which it emanates at levels exceeding the requirements of this section;

(e) Permitting reasonable uses of outdoor lighting for safety, utility, security, productivity, commerce, and enjoyment;

(f) Minimizing glare;

(g) Avoiding impacts on nearby residential properties;

(h) Reducing atmospheric light pollution by using shielded and downward facing lighting; and

(i) Requiring that certain outdoor fixtures be extinguished during nighttime hours as shall be determined by the Planning Board during site plan, special use permit, and subdivision plan review.

(2) Applicability.

(a) Existing installations. All existing outdoor lighting on a structure shall comply with the provisions of this section. All existing outdoor lighting on a structure which is replaced, modified, refurbished, retrofitted, and/or installed after the effective date of this local law shall be the minimum necessary, in both number of luminaires and intensity of light, to achieve the intended purpose of the lighting, and shall conform to the standards as set forth in this section.

(b) Additions, improvements, alterations and additions of new fixtures. All outdoor lighting, including lighting and/or light fixtures as part of an addition, modification, alteration, or otherwise, installed after the effective date of this local law, shall conform to the standards as further provided in this section.

(3) Lighting plan. As part of any site plan, special permit, or subdivision plan, the Planning Board may require submission of a lighting plan and supporting materials. The lighting plan shall include the following, unless waived by the Planning Board:

(1) Proposed fixture locations;

(2) Cumulative lighting levels from all existing and proposed luminaires measured in footcandles;

(3) Details and illustrations of proposed fixtures including photometric data, such as that furnished by manufacturers, or similar, showing the angle of cutoff of light emissions;

(4) glare control devices, lamps;

(5) mounting heights;

(6) Additional information that the Planning Board determines is necessary, including, but not limited to, an isolux plan indicating levels of illumination in foot-candles, at ground level, and a statement of the proposed hours and days of the week when the luminaires will be on and when they will be extinguished, maintenance, the location and use of adjacent properties, and a list of nearby properties that may be affected by the proposed lighting plan.

Prior to issuance of a certificate of occupancy, the applicant shall certify in writing to the Building Inspector that all outdoor lights were installed as described on the approved lighting plan.

(3) Lamp or fixture substitution. Should any outdoor lighting fixture or the type of light source therein be changed to a greater intensity after a plan has been approved, a change request must be submitted to the Building Inspector for approval. The Building Inspector shall review the change request to assure compliance with this section. If the change request is not substantially different than what was approved, the Building Inspector may approve it. If the change request is substantial, the request shall be forwarded to the Planning Board for an amended approval, which must be received prior to substitution.

(4) Approved materials and methods of construction or installation/operation. The provisions of this article are not intended to prevent the use of any design, material, or methods of installation or operation not specifically prescribed by this section, provided any such alternate has been approved. The Planning Board may approve an alternative provided it:

(1) Provides at least approximate equivalence to the applicable specific requirement of this section; and

(2) Is otherwise satisfactory and complies with the purpose of this section.

(5) General standards. All outdoor lights and externally illuminated signs shall be designed, located, installed, and directed in such manner as to prevent light trespass at and across the property lines, and to prevent direct glare at any location off the property, and to be shielded to the extent possible so as to confine the light within the property. The Town may require that minimum lighting levels be used to attain efficient and effective use of outdoor lighting. The latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IESNA) shall be reviewed for reference levels.

(6) Prohibitions.

(a) Lighting that is uplit or unshielded is prohibited. Externally lit signs, displays, buildings, structures, streets, parking areas, recreational areas, landscaping, and other objects lit for aesthetic or other purposes shall be illuminated only with steady, stationary, fully shielded light sources without causing glare or light trespass beyond the property line.

(b) Roof-mounted area lighting is prohibited.

(c) The use of laser lighting for outdoor advertising or entertainment and the operation of search lights for advertising purposes are prohibited unless specifically approved by the Town Board.

(d) Mercury vapor lights and quartz lamps are prohibited light sources, except to the extent that the local utility provider utilizes same for street lighting.

(e) Unshielded wall pack-type fixtures are prohibited.

(7) Standards. Lighting shall conform to the following standards:

(a) All lighting, including sign lighting, shall be designed and arranged so as to be “night sky compliant” by minimizing glare, light trespass, and reflection on adjacent properties.

(b) The style of the light, light standard, pole and fixture shall be consistent with the architectural style of the building and its surroundings.

(c) Unless specified elsewhere herein or except for outdoor recreational facilities, such as baseball and other field sports, the maximum height of a freestanding luminaire shall not exceed fifteen (15) feet above the average finished grade. The maximum allowable height of a building or structure-mounted luminaire shall be twenty (20) feet.

(d) The source of the light shall be fully shielded with full ninety (90) degree cut-off luminaires or located such that it shall not be visible beyond the property boundary on which it is situated. The lighting shall also be shielded to prevent direct glare and/or light trespass and shall be, as much as physically practical, contained to the target area. Floodlighting is discouraged and, if used, must be:

(1) shielded to prevent direct glare for drivers and pedestrians;

(2) must not permit light trespass past the property line; and

(3) must no emit light above a ninety (ninety) degree, horizontal plane.

(e) All outdoor lighting shall be of such type and location to provide a minimum illumination of one (1) foot-candle in publicly-accessible areas and shall be shielded so as to prevent the source of the light from being a visual nuisance to any adjoining residential property.

(f) Light trespass. Illumination from light fixtures shall not exceed 0.1 foot-candle at the property line, as measured along the shared property boundary at ground level. A maximum Uniformity Ratio (average to minimum) of 4:1 throughout the site shall be achieved. Mitigation to avoid or minimize light trespass shall be provided and may include landscaping and berming.

(g) The Planning Board may impose limits on the hours of lighting. The Planning Board may require that lights be controlled by automatic timing devices. The Planning Board shall consider the need to provide security in determining the hours of lighting operations. Except for single and two-family dwellings, all nonessential lighting shall be turned off not later than one (1) hour after, and not sooner than one hour before, normal business hours, leaving only the necessary lighting for site security and signage, which shall be reduced to the minimum level necessary, but in no event shall exceed one (1) foot-candle. Nonessential lighting applies to display, aesthetic, parking and sign lighting. Motion-sensor security lighting is recommended to promote safety and reduce the amount of night lighting

in the Town. Single and two-family dwellings are encouraged to reduce the illuminance of their structures to the minimum levels necessary, such that lighting not exceed one (1) foot-candle. Motion-sensor security lighting is recommended to promote safety and to reduce the amount of night lighting in the Town.

(h) Automotive filling stations. Island canopy ceiling fixtures shall be recessed so that the bottom of the fixture is flush with the ceiling. Lighting levels under the canopy shall not exceed fourteen (14) footcandles.

(i) Recreational facilities, public or private. Lighting for outdoor recreational facilities shall be fully shielded.

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

(k) Energy-efficient light sources are encouraged. LED color shall not exceed 3,000 Kelvin.

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

(m) Outdoor lighting in and around the ponds, lakes, rivers, and other waters of the Town shall not be installed or maintained so as to create a hazard or nuisance to other property owners and shall comply with the following restrictions.

(n) Lights on docks shall be no more than three (3) feet above the dock, shall be directed downward and be full cutoff fixtures.

(o) Lights illuminating paths, stairs, decks, etc., shall not be directed towards the public bodies of water and shall not direct light upwards.

(p) All outdoor lighting shall be located, mounted and shielded, so that direct illumination is not focused towards the public bodies of water surface more than twenty (20) feet from shore.

(8) Exemptions. The following uses/activities shall be exempt from the provisions of this section:

(a) Roadway lighting within the public right-of-way;

(b) Temporary lighting for circus, fair, carnival, religious, historic, or civic use;

(c) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting;

(d) Temporary lighting, including holiday lighting for no more than two (2) months per year;

(e) All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels;

(f) Outdoor light fixtures installed on, and in connection with, those facilities and land owned or operated by the federal government, the State of New York, the County of Putnam, the Town of Carmel, or any department, division, agency or instrumentality thereof, or installed on facilities owned by a religious institution. Voluntary compliance with the intent of this article at those facilities is encouraged; and

(g) Flag uplighting, provided any such flag is not used for advertising purposes.

(9) Lamp or fixture substitution. Should any outdoor lighting fixture or the type of light source therein be changed to a greater intensity after a lighting plan has been approved, a change request must be submitted to the Building Inspector for revised approval. The Building Inspector shall review the change request to ensure compliance with this section. If the change request is not substantial, the Building Inspector may approve it. If the change request is substantial, the Building Inspector shall forward such request to the Planning Board for an amended approval, which must be received prior to substitution.

(10) Waivers. Where site conditions warrant exceptions to the strict application of standards in this section, the Planning Board may waive the requirements set forth in this section provided that the intent of section is met.

C. Art sculptures and visual enhancements. The Town of Carmel encourages new large-scale development to incorporate visual enhancements and features which serve to beautify the visual environment and add visual interest in the community. Wherever a site plan application proposes the development of 50,000 square feet of gross floor area or more of commercial space, or 100 or more dwelling units which development has access or street frontage along a state road, a visual

enhancement shall be installed which may include an art sculpture, water feature, or similar improvement which is consistent with the design of the proposed buildings and which shall be approved by the Planning Board. Nothing herein shall limit any property owner from installing art sculptures or other visual enhancement on the property in accordance with this Zoning chapter.

§ 156-46 Clearing, filling and grading ("CFG") permit.

A. Purpose. In order to promote the public health, safety and general welfare, and protect adjoining lands and water bodies from potential soil erosion and sedimentation impacts, the clearing, filling and grading of property is hereby regulated and requires issuance of a clearing, filling and grading permit ("CFG" permit). A CFG permit is not required for any activity which is conducted in accordance with a site plan or subdivision plan approved by the Planning Board, provided that the plan illustrates the limits of disturbance, the activity conforms to the plan, and soil erosion and sediment control measures and/or a stormwater pollution prevention plan shall have been approved.

B. General regulations. No excavation, regrading, filling, removal, stripping or disturbance of topsoil, earth, sand, gravel, rock or other substance from the ground, subsequently herein referred to as an "operation" or "operations," shall be commenced or carried on in the Town of Carmel unless, except as otherwise provided herein, a permit has been duly issued in accordance with the procedure set forth elsewhere in this section.

C. Activities regulated.

(1) Activities involving less than four hundred (400) square feet of area. Any activity that disturbs less than four hundred (400) square feet of gross lot area shall not require a CFG permit. The Building Inspector, in issuing a building permit, can require that soil erosion control measures be installed to reduce impacts to adjoining properties, watercourses, and waterbodies.

(2) Activities associated with the construction or expansion of a single-family detached or two-family dwelling. Whenever disturbances are proposed on a lot being used for a single-family detached or two-family dwelling, or proposing construction or expansion of same, which proposes land disturbances between 400 square feet and 2,400 square feet of gross lot area, a CFG permit from the Building Inspector shall be required. The Building Inspector may refer any application for a CFG permit to the Town Engineer. The cost of said review, which is reasonable and necessary to the decision-making function, shall be borne by the applicant. The Building Inspector, in issuing a CFG permit, must require that soil erosion control measures be installed to reduce impacts to adjoining properties, watercourses, or waterbodies.

(3) All other activities. Any activity not regulated in subsection (1) and (2) above shall require approval of a land disturbance plan from the Planning Board and a CFG permit from the Building Inspector.

D. Exemptions. A CFG permit shall not be required for the following:

(1) planting of landscaping;

(2) grading existing lawn areas;

(3) normal repairs of occupied property;

(4) correcting hazards representing an imminent threat to life or property;

(5) removal of dead wood;

(6) clearing, filling or grading for land development pursuant to, but not prior to, an approved site plan or final subdivision plat, provided said plans clearly illustrate the limits and extent of clearing, filling and grading activities to be conducted on the site or lot, and soil erosion and sediment control measures have been approved to mitigate potential impacts associated with said activities;

(7) The removal of trees in accordance with Chapter 142, Trees.

(8) Municipal and other public operations. This subsection shall not apply to operations of or conducted by the Town of Carmel, County of Putnam or State of New York or any department or agency thereof.

E. Cases where a building permit, an approved site plan or an approved subdivision construction plan is deemed a permit under this subsection.

(1) A building permit for a building and/or its accessory structures shall be deemed to be a permit for such excavation and/or landfill necessary for the construction of that building and/or its accessory structures, provided that the volume of any excavated material removed from the property does not exceed two times the volume of the cellar and foundation of the dwelling and/or accessory structures for which the building permit was issued. The Building Inspector shall endorse the building permit to the effect that such excavation and/or landfill is permitted, specifying the maximum volume of excavated material which may be removed.

(2) In those cases where the Planning Board has approved, with or without conditions, the construction plans for proposed streets and drainage facilities in new subdivisions and site plans, the approved construction plans shall be deemed to be a duly issued permit for such

operation within the rights-of-way and slope rights of the proposed streets and areas reserved for drainage facilities as may be necessary for their establishments, provided that if there is to be removal of excavated material, said removal shall be disclosed as an integral part of the approved plan and duly endorsed thereon. All operations outside such street rights-of-way and slope rights and drainage facilities shall be subject to the permit and approval requirements of this subsection.

(3) All excavation performed without the necessity of a permit shall nonetheless conform to the general regulations contained in Subsection **A(1)** and **(3)** of this section.

F. Application procedure. Application for a permit shall contain the following information:

(1) The full name and address of the owner or owners of property.

(2) The street address, if any, and Tax Map designation of the property.

(3) A statement as to authority from the owner, or any person other than owner if such person is making the application, with consent of owner endorsed thereon.

(4) A statement of proposed work and purpose thereof.

(5) Accompanying said application and as a part thereof, complete plans and estimates for the proposed site improvements shall be submitted for approval. The plans shall be certified by an engineer or architect, licensed in the State of New York, and shall be drawn to a scale of not less than one inch equals fifty (50) feet and shall show the following:

(a) The limits of disturbances and its relation to neighboring properties, together with buildings, roads and natural watercourses, if any, within three hundred (300) feet of the boundaries of the limits of disturbance. An inset map at a reduced scale may be used, if necessary.

(b) The estimated maximum quantity to be excavated and/or removed and the estimated part thereof that will be used for regrading or filling, computed from cross sections of a proposed excavation or disturbed area.

(c) The location of any well and the depth thereof, and the location of natural watercourses, if any, located within three hundred (300) feet of the proposed disturbed area.

(d) The location of any sewage disposal system, any part of which is within three hundred (300) feet of the proposed disturbed area.

(e) Existing topography of the area proposed to be disturbed at a contour interval of not more than two feet. Contours shall be shown for a distance of one hundred (100) feet beyond the area to be disturbed.

(f) The existing and proposed final contours at a contour interval of two (2) feet.

(g) The location and present status of any previous operations of the type contemplated by this subsection on the property within the preceding five (5) years.

(h) The details of any stormwater controls proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage of the land, both during the performance of the work applied for and after the completion thereof.

(i) If a proposed excavation is for the purpose of making a lake or pond, the details of the proposed construction of the dam or other structure or embankment intended to impound the water, together with the details and location of proposed discharge of a valved outlet for drainage purposes and the design of any impoundment structure must be designed by a New York State licensed professional engineer.

(j) The rehabilitation proposed and the estimate of the cost of such work, in accordance with the standards herein.

(k) The details of all soil erosion control measures to be implemented.

(6) Upon the filing of an application hereunder, the applicant shall pay a filing fee in accordance with the Town of Carmel Fee Schedule.

G. Review procedure.

(1) The application and plans shall be reviewed in accordance with the standards and requirements set forth herein and requirements of all other applicable local, state and federal regulations.

(2) In rendering a decision, the proposed activities shall meet the following criteria:

(a) That the location and size of the proposed operation, the nature and intensity of the work involved in or conducted in connection with it and the size of the site in relation to it are such that, upon completion of the operation and the establishment of the permitted use, the site will be in harmony with the appropriate and orderly development of the district in which it is located.

(b) That the proposed operation will not be in conflict with any requirement of this Zoning chapter.

(c) That the proposed operation will be incidental to the establishment, improvement or operation of a use permitted in the zoning district in which the property is located. Clearing shall not occur in advance of a submission of a site plan, special use permit, or subdivision application, which application will be submitted within one (1) year of the clearing.

(d) That the proposed operation will not disturb any land designated as wetlands by the Town of Carmel or the State of New York.

(e) That a SWPPP shall be submitted and a permit issued, if required.

H. Decision. The Building Inspector or Planning Board shall approve, approve with modifications, or disapprove the permit. Any permit shall be issued in accordance with the terms of this subsection, subject to any restrictions, safeguards or conditions of the decision. A permit shall not be issued until the applicant shall have posted a performance bond as set forth below. A CFG permit shall expire within twelve (12) months of the date of approval. A permit may be extended by the Building Inspector or Planning Board for one additional twelve (12) month period. In making a determination on extension, the Board shall conduct a complete review of all plans and review all work accomplished as of the date of the extension request.

I. Standards. All activities shall be performed in accordance with the following standards:

(1) No activity authorized under this subsection shall occur on a Sunday or Federal or New York State holidays before 8 AM or after 5 PM on any other day.

(2) No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground.

(3) All fill shall be clean soil, rocks or sand as per NYSDEC guidelines and shall be nonburnable and shall contain no garbage, refuse, waste or material deemed to be deleterious according to the standards of the applicable health codes.

(3) Regrading adjacent to property lines shall be so designed that the work will not endanger abutting property by reason of erosion, landslides or increased runoff. The Planning Board may recommend, as a condition of permit approval, such limits to the work and such supplementary drainage structures or other safeguards as it may deem to be necessary to assure such protection to abutting lands.

(4) The proposed operation shall be so designed that the work will not cause soil erosion, flooding or increased stormwater runoff nor adversely affect wetlands within the Town of Carmel.

(5) There shall be a maximum of two (2) truck access drives to the site of the operation, which shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such drives shall be kept either wet or oiled or shall be treated with chemical dust deterrents or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such access drives shall be clearly marked with signs which shall be posted approximately two hundred (200) feet on both sides of such access drives or other traveled areas. Such signs shall read "Caution, Trucks Entering" and shall be of size, type, coloring, lettering and format used by the Highway Department of the Town.

(6) All streets and highways leading to the operation shall be kept clean of all dirt, rocks and other material, and all storm drainage systems in the area of the operation shall be kept clean and in good operating condition. Violation of this condition shall be grounds for revocation of the permit by the Building Inspector.

(7) At all times subsequent to the issuance of a permit and before completion of the final grading, as herein provided, any excavation having a slope steeper than one (1) foot vertically for each one (1) foot horizontally and having a depth greater than three (3) feet or involving standing water of a depth greater than six (6) inches shall be entirely enclosed by wooden or wire-mesh fence not less than four (4) feet in height, measured from ground level, with a gate of the same height at each entrance thereto. If such fencing and gates are of wooden construction, each fencing board shall be separated by not more than seven (7) inches and, if constructed of wire-mesh fencing, the mesh thereof shall not be greater than six (6) inches by six (6) inches. No such fence shall be so located as to obstruct visibility at the access drives. Gates shall be securely locked at all times when the project is not in operation.

(8) Storage piles of materials, including waste material, shall at no time be located nearer than fifty (50) feet to a property or street line or have a grade steeper than one (1) foot vertical for each two (2) feet horizontal.

(9) All trucks and equipment stored on the site of the operation shall be set back at least fifty (50) feet from the nearest property or street line.

H. Rehabilitation of site. Upon completion of the work permitted, the site shall be rehabilitated in accordance with the following standards:

(1) The final grade shall be finished at a slope no steeper than one foot vertically for each two (2) feet horizontally for any material other than rock, except where supported by a retaining wall or foundation. Finished excavated rock surface to fast rock shall have a slope no steeper than six (6) feet vertically for each one (1) foot horizontally.

(2) A minimum of four (4) inches of topsoil shall be replaced over all ground surfaces exposed by any operation contemplated herein, except rock, roads, driveways, parking places, garden spaces and surfaces excavated below high water marks or lakes or ponds or streams, and then shall be seeded and planted as specified by the Planning Board to prevent erosion.

(3) Upon completion of all rehabilitation work, the applicant shall so notify the Planning Board. The Planning Board shall make, or cause to be made, a field inspection of the site to determine if all work has been completed in accordance with the terms of the permit and the approved plans. The Planning Board shall make a report to the Town Board upon the completion of its investigation, describing the degree to which the operation is in conformance with the terms of the permit and plans, together with its recommendation as to the release of the performance bond posted.

I. Performance bond. The applicant may be required to post a performance bond or money security deposit to guarantee the satisfactory restoration of any State, County or Town road or other public property which might be damaged as a result of the clearing, filling and grading activities. The form of the bond or money security deposit shall be approved by the Town Attorney, and the amount of the performance bond or money security deposit shall be determined and approved by the Town Board upon the advice of the Town Engineer and Planning Board. In the event that the applicant fails or refuses to make the necessary repairs, the Town Board shall use the performance bond or money security to pay the expense of making such repairs.

J. The Planning Board and Building Inspector may require inspections of the site until the activity is completed. The applicant shall be required as a condition of the permit to authorize Town employees or agents to enter onto the applicant's property to conduct the appropriate surveillance. Any and all costs for this service will be estimated prior to the issuance of a permit, with advice from the Town Engineer, and the applicant will then be required to post a certified check to cover such costs.

K. Reasonable conditions may be imposed on the issuance of the permit, such as screening, access controls, dust controls, soil testing, provision of manifests documenting the location from which any fill to be brought on-site emanates, site security or other conditions which are deemed necessary in order to adequately maintain the site.

§ 156-47 Performance standards; prohibited uses.

A. Objectives.

(1) The objectives of the following performance standards are to ensure that all nonresidential uses will provide methods to protect the community from hazards and nuisances which can be

prevented by processes of control and nuisance elimination.

(2) No land or building may be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazardous condition; noise or vibration; smoke, dust, odor or other form of pollution; glare or heat; conditions conducive to the breeding of rodents or insects or other dangerous or objectionable elements in an amount or manner as to adversely affect the surrounding area.

B. Application.

(1) Any use established or changed to and any building, structure or tract of land developed, constructed or used for any permitted use shall comply with all the district regulations and performance standards referred to herein and all applicable requirements of state/federal agencies.

(2) The Planning Board may require from the applicant a certification from a registered professional engineer or architect in the State of New York that the proposed use can meet the performance standards of this chapter. Further, the Planning Board may, at the expense of the applicant, employ consultants to evaluate the environmental effects with respect to performance standards.

C. Noise.

(1) Noise shall be measured with a sound level meter and octave band analyzer that conforms to specifications of the American Standards Association. Measurements are to be made at lot lines.

(2) The following sources of noise are exempt:

(a) Transportation vehicles not under the control of the industrial use.

(b) The noises of safety signals, warning devices and emergency pressure relief valves.

(c) Temporary construction activity between 8:00 A.M. and 6:00 P.M.

(3) Tables.

(a) All noise shall be muffled so as not to be objectionable due to intermittence, high frequency or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility exceed the values given in Table 1.

Table 1

Maximum Permissible Sound Pressure Levels

Frequency Band (cycles/second)	**Sound Pressure Level (decibels)**
20 - 75	69
75 - 150	60
150 - 300	56
300 - 600	51
600 - 1,200	42
1,200 - 2,400	40
2,400 - 4,800	38
4,800 - 10,000	35

(b) If the noise is not smooth and continuous and is not radiated between 7:00 P.M. and 7:00 A.M., one or more of the corrections in Table 2 shall be added or subtracted from each of the decibel levels given in Table 1.

Table 2

Correction in Maximum Permitted Sound Level Pressure in Decibels to be Applied to Table 1

Type of Operation or Character of Noise	**Correction (in decibels)**
Noise source operates less than 20% of any 1-hour period	Plus 5*
Noise source operates less than 5% of any 1-hour period	Plus 10*
Noise source operates less than 1% of any 1-hour period	Plus 15*
Noise of periodic character (hum, screech, etc.)	Minus 5
Noise of impulsive character (hammering, etc.)	Minus 5

*NOTE: Apply one of these corrections only.

D. Vibration.

(1) Vibration shall be measured at lot lines, and such measurement shall not exceed the particle velocity designated herein. The instrument used for these measurements shall be a three (3)

component measuring system (seismograph) capable of simultaneous measurement of vibration on three (3) mutually perpendicular directions (one vertical and two horizontal).

(2) The maximum permitted vibration is given below in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency, utilizing the following formula:

PV	=	6.28 F X D
Where		
PV	=	Particle velocity, inches per second.
F	=	Vibration frequency, cycles per second.
D	=	Single displacement (amplitude) of the vibration, inches.

(3) The maximum particle velocity shall be the vector sum of the three (3) individual components recorded. Such particle velocity shall not exceed one-tenth (0.10) at the lot line. However, where vibration is produced as discrete impulses and such impulses do not exceed a frequency of one hundred (100) per minute, the maximum particle velocity shall not exceed two-tenths (0.20).

E. Dust and particulates.

(1) The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation or activity within the boundaries of any lot shall be restricted to a maximum three-quarter (0.75) pound per hour per acre of lot area. Emission of dust and particulates shall be in accordance with the State of New York rules and regulations governing air contamination and air pollution. In case of conflict, the most restrictive shall apply.

(2) The emission rate of particulate matter in pounds per hour from any single stack shall be determined by selecting a continuous four-hour period which will result in the highest average emission rate.

(3) Particulate matter emission from materials or products subject to becoming windborne shall be kept to a minimum by paving, oiling, wetting, covering or other means, so as to render the surface wind resistant. Such sources include, among other things, vacant lots, yards and storage piles of bulk material, such as coal, sand, cinders, slag, sulphur, etc.

F. Smoke.

(1) For the purpose of grading the density or equivalent opacity of smoke, the Ringelmann Chart as published by the United States Bureau of Mines shall be used.

(2) The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening or combustion process is prohibited. However, smoke of a shade not to exceed Ringelmann No. 2 is permitted for up to three (3) minutes total in any, one (1) hour period.

G. Odor.

(1) Odor thresholds shall be measured in accordance with the American Society for Testing and Materials (ASTM) Method D1391-57, Standard Method for Measurement of Odor in Atmosphere (Dilution Method), or its equivalent, where the odor threshold is the concentration in air of a gas or vapor which will just evoke a response in the human olfactory system.

(2) Odorous material released from any operation or activity shall not exceed the odor threshold concentration beyond the lot line, measured either at ground level or habitable elevation.

H. Toxic matter. The measurement of toxic matter shall be at ground level or habitable elevation and shall be the average of any twenty-four-hour sampling period. The release of any airborne toxic matter shall not exceed two and one-half (2.5) percent of the Threshold Limit Values, adopted by the American Conference of Governmental Industrial Hygienists.

I. Detonable materials.

(1) The storage, utilization or manufacture of materials or products which decompose by detonation is limited to five pounds.

(2) Such materials shall include but are not limited to all primary explosives, such as lead azide, lead styphnate, fulminates and tetracene; all high explosives, such as TNT, RDX, HMX, PETN and picric acid; propellants and components thereof, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives, pyrotechnics and fireworks, such as magnesius powder, potassium chlorate and potassium nitrate; blasting explosives, such as dynamite and nitroglycerine; unstable organic compounds, such as acetylides, texraxoles and ozonides; unstable oxidizing agents, such as perchloric acid, perchlorates and hydrogen peroxide in concentration greater than 35%; and nuclear fuels, fissionable materials and products and reactor elements, such as Uranium 235 and Plutonium 239.

(3) All applications shall comply with the requirements of Chapter 53, Blasting, of the Town of Carmel.

J. Prohibited uses; activities.

(1) Within any Town water district, the installation of landscape irrigation systems for lawn and landscape watering is prohibited.

§ 156-48 Residential cluster development.

A. Purpose. The Planning Board, in its discretion, may approve a cluster development in any district where single-family dwellings are permitted. The Planning Board may also require submission of a cluster development where it finds that a property contains the significant features set forth below in subsection C. The purpose of this provision is to allow an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands as described further below. Nothing herein shall require that the Planning Board allow a cluster development, where it determines that a proposed subdivision will not result in the benefits set forth above.

B. In order to increase design flexibility, two or more contiguous parcels of land, including parcels separated by a Town, County, State, or private road, may be grouped together as one cluster provided the parcels are in common ownership and are merged into one parent parcel.

C. Conservation values. The application of these provisions shall be guided by the important physical, cultural and natural features of the particular property under review as follows:

(1) Steep slopes.

(2) Freshwater wetlands under the regulatory jurisdiction of the New York State Department of Environmental Conservation (DEC) and/or the U.S. Army Corps of Engineers.

(3) 100-year floodplains as identified on Federal Emergency Management Agency (FEMA) maps.

(4) Properties listed on the National and/or State Registers of Historic Places or eligible for listing by the New York State Office of Parks, Recreation and Historic Preservation for inclusion on such registers. The cluster development shall require preservation of said historic features.

(5) Lands containing a farm operation which farm operation will be preserved subsequent to the cluster development.

(6) Significant viewsheds as determined by the application of the State Environmental Quality Review Act.

(7) Recreational resources and water bodies including lakes, ponds, streams, or other potentially significant recreational resources.

(8) Known habitats containing endangered, threatened, or special concern wildlife species, protected native plants, endangered, threatened, or rare plants, or State identified significant habitats.

(9) Existing or potential trails including bikeways, hiking trails or multi-use, non-motorized routes of local, county, state or national significance.

D. Procedure.

(1) The applicant for a residential major subdivision shall submit a conservation plan, a conventional subdivision plan, and a conceptual cluster plan with the filing of the application for preliminary subdivision approval. The Planning Board shall review the conservation, cluster and conventional plans and shall require such other and further details for each plan that it reasonably believes necessary to evaluate same. Until all requested information is submitted, the application for preliminary subdivision approval shall be deemed incomplete. Nothing herein shall limit an applicant from requesting a cluster subdivision approval for a minor or major subdivision.

(2) Conservation Value Analysis and Plan.

(a) In order to determine the conservation value of open space on a specific parcel of land, the applicant shall prepare and the Planning Board shall review a "conservation plan" of the parcel. The open space protected pursuant to this Section shall have "conservation value" which may include historic, ecological, agricultural, water resource, scenic, or other natural resource value. Lands with conservation value include scenic view corridors, agricultural land, land with prime farmland soils or soils of statewide importance, aquifers and their recharge areas, ecological habitat for sensitive species, historic buildings or landscapes, large areas or contiguous forest, ridgelines and hillsides visible from public roads or other public areas, state or federal wetlands, lakes, water bodies, and stream corridors. These areas shall be mapped on a separate conservation plan which clearly demarcates these areas.

(b) The Planning Board shall review the conservation plan, and determine which resources are to be protected as open space. No less than fifty (50) percent of the gross area of the parcel shall be set aside for conservation as part of a cluster layout. The open space is separate and in addition to any land which the Planning Board deems must be set aside for active recreation in accordance with § 156-85.

(3) Review of conventional plat to determine residential yield. The conventional subdivision plan shall be submitted to establish the maximum number of lots or dwellings that shall be

permitted on the subject property, referred to as the residential yield. The permitted number of dwelling units in a cluster subdivision shall in no case exceed the number of units that, in the Planning Board's judgment, would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of this chapter, the Subdivision Regulations, the Putnam County Department of Health regulations, NYSDEC regulations, and all other applicable local, state and federal laws, regulations and standards. The basis for this determination will be a conventional subdivision plat for the subject parcel netting out all environmentally constrained lands as per § 156-11, as well as roads (including road grades), stormwater basins, required setbacks for individual wells and septic systems, and other information as may be required by the Planning Board. The Planning Board shall, by resolution, establish the maximum residential yield upon a review of the conventional plan layout. The Planning Board may waive submission of documentation of the full residential yield where, in the Planning Board's judgment, the number of lots proposed is substantially less than the total allowable residential yield, provided that the plat contains a notation clearly indicating the reduction in the total lot count applies to the remaining unsubdivided parcel.

(4) Cluster layout. Using the conservation plan as a basis for determining areas to be protected as open space, the Applicant shall design a cluster plan layout which preserves the natural attributes and resources shown on the conservation plan that have been evaluated by the Planning Board and determined to be areas which shall remain as open space.

(5) Resolution to pursue cluster or conventional layout. Upon review of the preliminary conventional and the cluster subdivision plans, the Planning Board shall advise the applicant as to which plan shall be advanced through the subdivision review process set forth in Chapter 131, Subdivision of Land, and/or the site plan review process as per Article VIII of this Zoning chapter. For purposes of SEQRA review, said resolution shall not be deemed an "action".

E. Design standards for cluster subdivisions.

(1) Allowable uses. The residential uses allowed within a zoning district may be single family detached dwellings on individual lots. In the RR and NR zoning districts, single-family semi-attached and attached dwellings may be allowed at the discretion of the Planning Board, and the maximum density shall be as established herein. The total number of dwellings shall not exceed the maximum residential density determined as per this subsection.

(2) Subdivision of clustered lots. No further subdivision of clustered lots shall be permitted. A map note specifying this restriction shall be included on the final plan.

(3) No buildings may be constructed within the open space area, except that the Planning Board, in its discretion, may allow outbuildings such as barns or sheds associated with agricultural operations to be located in an open space area which is preserved for agricultural uses.

(4) Utilities. A cluster development may be served by individual well, individual septic, or central water and central sewer facilities, each approved by the appropriate agency or other entity having jurisdiction. All water, sewer and gas lines, power, telephone, cable and other communication services shall be installed underground in compliance with state and local regulations.

(5) Arrangement of lots and dwelling units. The following guidelines shall apply:

(a) Retain and reuse existing farm roads, lanes or driveways rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)

(b) Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.

(c) Avoid placing buildings in the middle of open fields. Place buildings either at the edge of fields or in the ecologically least significant parts of wooded areas where they will be less intrusive to views from adjacent roads, trails or high viewpoints.

(d) Use existing vegetation and topography to buffer and screen new buildings if possible, unless they are designed and located close to the road in the manner historically found in the Town. Site buildings in groups or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a sprawl pattern.

(e) Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Create curves in driveways, with due regard to safety issues, to increase the screening of buildings.

(f) Site buildings so that they do not protrude above ridgelines as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever creating vistas is intended, open up views by selective cutting such as removal of understory vegetation and pruning lower branches of large trees, rather than by clearing large areas or removing large trees.

(g) Minimize crossing of steep slopes, wetlands, and critical environmental areas with roads and driveways.

(h) The required open space land may not include private yards located within seventy-five (75) feet of a principal building.

(6) Minimum lot area and yard requirements. The Planning Board is allowed to vary the minimum yard and lot area requirements otherwise required in the Schedule of District Regulations as follows:

(a) The minimum lot area for individual lots with single family detached dwellings in a cluster subdivision shall be as follows: The minimum lot size may be less then what otherwise would be required for a conventional lot in the district, except that no single lot shall be less than one (1) gross acre. Any proposed lot size less than one (1) acre shall require the approval of the Town Board by resolution.

(b) The minimum yard requirements shall be established by the Planning Board during cluster review.

(7) Attached and semi-attached dwellings. The yard requirements shall be established by the Planning Board during cluster plan review and all dwellings shall be located on individual fee simple lots.

(8) The Planning Board shall determine the maximum lot coverage for a cluster development.

(9) The Planning Board may require the protection of an undisturbed vegetative buffer along the side and rear property lines for any cluster development where the units are located on common land and the building adjoins a single family detached dwelling, to be no less than twenty-five (25) feet in depth. Where the required open space meets this purpose, no additional buffer is required. Off-street parking may be permitted in a front yard only in a driveway giving access to a garage, but off-street parking spaces shall otherwise be located behind the front façade of the building.

(10) Building height. The Planning Board is not authorized to vary the maximum height limitation for any buildings or structure for the zoning district within which the cluster development is located.

(11) Permanent open space in cluster developments. Protected open space may be included as a portion of one or more large building lots, or may be contained in a separate open space lot. Such open space may be owned by a homeowners association, one or more private landowners, a non-profit organization, the Town or another governmental entity, or any other appropriate entity, as long as it is protected from development or encroachments by a conservation easement and deed restriction which shall be enforceable by the Town of Carmel. The open space area, when located on individual lots to remain in private ownership, shall be demarcated by survey markers in a form to be approved by the Planning Board. A Conservation Easement Baseline Report shall be prepared by the Applicant and submitted to the Planning Department for filing prior to signing the final cluster plan. The Baseline Report is for purposes of documenting the location of the conservation easement area, and ensuring no

encroachment occurs to same except to allow those activities permitted within the easement, e.g., agricultural operations. The following documentation shall be included in the Report:

(a) Location Map: Property shown on the Town zoning map or other parcel-based map with area shown within 1,500 feet of the project site, with the property highlighted.

(b) A copy of the executed Conservation Easement and deed restrictions.

(c) Metes and bounds description of the Conservation Easement area.

(d) An 11" x 17" map or larger of the Planning Board approved site plan or subdivision plan illustrating clearly the conservation easement area. The map shall show parcel boundaries, topography, wetlands, and existing structures, if any.

(e) An up-to-date aerial map of the property.

(f) Photo key map, using map described in "(d)" above as base, with photos as per "(g)" below.

(g) Photographs of the conservation easement area, keyed to the features shown on the approved cluster plan, shall be submitted after conservation easement markers are installed. The baseline report shall include compass direction and description of the photo subject. All existing structures and the existing condition (wetland, forest, etc.) within the conservation easement area shall be described in a narrative referencing the photos taken. Use of GPS for purposes of accurately identifying locations from which photos are taken is recommended especially, where there are few reference points, e.g., middle of woods. It is preferable for baseline photos to be taken when snow cover is not present.

(h) The Applicant's professional shall certify (through signature) the Report as being accurate.

(12) Notations on plat or site plan. Protected open space land shall be clearly delineated and labeled on any final plan as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of other lots in the subdivision to such land. The plat or site plan shall clearly show that the open space land is permanently reserved for open space purposes.

(13) Permanent protection by conservation easement. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Town Board upon the recommendations of the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of subdivision plat approval. The Planning Board shall require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation

easement shall be recorded in the County Clerk's office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's office or a site plan in the Planning Department. A conservation easement shall also be required on HOA lands.

(14) Ownership of Open Space Land – Homeowners Association (HOA). If the land is owned in common by a HOA, such HOA shall be established in accordance with the following:

(a) The HOA documentation must be submitted to the Planning Board before the final subdivision plat is approved, and must comply with all applicable provisions of the General Business Law.

(b) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, common driveways, and other common facilities.

(c) The open space restrictions must be in perpetuity.

(d) The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and common driveways.

(e) Property owners must pay their pro rata share of the costs in Subsection (iv) above, and the assessment levied by the HOA must be able to become a lien on the property.

(f) The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

(g) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.

(h) The attorney for the Planning Board shall find that the HOA documents presented satisfy the conditions above, and such other conditions as the Planning Board shall deem necessary to ensure continuation and protection of the open space lands.

(15) Maintenance standards.

(a) Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of approval, to ensure that open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials, or in any manner not approved by the Planning Board.

(b) In the event that the maintenance, preservation, and/or use of the open space area(s) ceases to be in compliance with any of the requirements of the Zoning chapter or any other requirements specified by the Planning Board when approving the cluster subdivision plat or site plan, the Town shall be granted the right to perform such maintenance as may be necessary or to otherwise assure compliance and to charge the cost to the responsible property owner or owners. Such charge, if unpaid for more than sixty (60) days, shall become a lien on the open space area and on the lots of any lot owners who share ownership of the open space area. Notwithstanding, the Town is under no obligation to maintain such open space areas.

F. Site plan approval for cluster developments.

(1) Where a cluster subdivision has been designed with semi-attached or attached dwellings with common area, a site plan shall also be submitted to and approved by the Planning Board prior to the issuance of a building permit in a cluster subdivision development.

(2) The site plan shall include all elements required by Article X of this Zoning chapter.

(3) Nothing contained in this article shall relieve the owner or his or her agent or the developer of a proposed cluster development from receiving subdivision plat approval in accordance with Chapter 131, Subdivision of Land.

(4) Prior to site plan approval, the developer shall file with the Planning Board a performance bond to ensure the proper installation of all park and recreation improvements shown on the site plan and a maintenance bond to ensure proper maintenance of all common lands until the homeowners association is established. The amount and period of said bonds shall be determined by the Town Board upon the recommendation of the Planning Board, and the form, sufficiency, manner of execution and surety shall be approved by the Town Attorney and the Town Board.

§ 156-49 through 54 Reserved.

Article VII Nonconformities

§ 156-55 Conformance required.

Except as hereinafter provided, no building or land shall be constructed or used except in conformity with the provisions of this Zoning chapter. However, the following provisions shall apply to all buildings and uses of land or buildings existing on the effective date of this chapter, which buildings and uses of land or buildings do not conform to the requirements set forth herein; to all building and uses of land or buildings that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof; and to all conforming buildings housing nonconforming uses.

§ 156-56 Continuation.

A. Except as provided in § **156-61** hereinafter regarding maintenance and repair, any type of nonconforming use of buildings or land may be continued indefinitely, but shall not be:

(1) Enlarged or structurally altered, extended or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter or of any applicable amendment thereof, nor shall any external evidence of such use be increased by any means whatsoever, except whereby, through such alteration, it is changed to a conforming use.

(2) Changed to another nonconforming use without approval from the Zoning Board of Appeals and then only to a use which, in the opinion of said Board, is of a more conforming nature.

(3) Reestablished after the physical operation thereof has ceased for a period of one (1) year for any reason. A discontinuance within the meaning of this Zoning chapter may occur regardless of whether an intent to abandon the nonconforming use exists and irrespective of the adaptation of the structure to that activity. A nonconforming use is deemed to be discontinued when either:

(a) Activities consistent with or required for the operation of the nonconforming use have ceased; or,

(b) The structure in which the nonconforming use was conducted is substantially vacated.

B. The lot area of any nonconforming use shall not be reduced if it is nonconforming. If the lot is of conforming area and dimensions, it shall not be reduced to a nonconforming area or dimensions.

§ 156-57 Noncomplying bulk.

A building or structure that is conforming to use but situated on a lot in a manner that does not comply to applicable bulk requirements, including but not limited to lot area, yard dimensions, building height, development coverage, off street parking, loading, or other bulk requirements set forth in this Zoning chapter shall be deemed to possess noncomplying bulk. Routine normal maintenance, repairs, and alterations that decrease or diminish said noncompliance are permitted. No permit shall be issued that will increase the nonconformity of any bulk requirements without an area variance from the Zoning Board of Appeals.

§ 156-58 Alteration or relocation of nonconforming use.

Except as provided in § **156-61** hereinafter, no building which houses a nonconforming use shall be:

A. Structurally altered or enlarged;

B. Moved to another location where such use continues to be nonconforming; or

C. Changed back to a nonconforming use if once changed to a use permitted in the district in which it is located.

§ 156-59 Restoration of nonconforming use.

A. A building, structure or use that complies with applicable bulk requirements but which contains a nonconforming use which is destroyed or damaged by any means to an extent of more than fifty (50) percent of the replacement cost of the entire building or structure, may not be reconstructed or used except in conformity with this Zoning chapter.

B. A building, structure, or use that complies with applicable bulk requirements but which contains a nonconforming use that is destroyed or damaged by any means to an extent of fifty (50) percent or less of the replacement cost of the entire structure may be reconstructed. The same nonconforming use may be continued if the reconstruction is completed within eighteen (18) months of the date of such damage, and said reconstruction is completed according to a plan approved by the Planning Board that does not result in any greater level of nonconformity with this Zoning chapter.

§ 156-60 Improvements to a nonconforming use that diminish impacts.

A. In order to bring a use that becomes nonconforming upon the adoption of this Zoning chapter into greater conformity with this Zoning chapter and reduce and diminish any impacts associated with the operation of said nonconforming use, the property owner may submit a site plan application to the Planning Board that demonstrates said impacts will be diminished. Impacts may be diminished through installation of screening materials, creation of buffer areas, application of

noise attenuation measures, reduction of smoke or odors, installation of lighting controls, minor structural or architectural changes, changes to the location or layout of parking lots, loading areas or access drives, or other appropriate means. Such plan shall be presented to the Planning Board, and the Planning Board may approve, approve with modifications or conditions, or disapprove the site plan application in accordance with **Article X** of this Zoning chapter. Said improvements shall otherwise conform to the regulations and requirements of this Zoning chapter.

§ 156-61 Maintenance and repair.

Nothing in this article shall be deemed to prevent normal maintenance and repair of any building or the carrying out, upon issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety, provided that the floor area or the nonconformity is not quantitatively extended.

§ 156-62 Applicability.

All the foregoing provisions relating to nonconforming uses and buildings shall apply to all nonconforming uses and buildings existing at the time of the adoption of this Zoning chapter and to all uses and buildings that become nonconforming by reason of any amendment thereof, but not to any use established or building erected in violation of law or Zoning chapter or any amendment regardless of the time of establishment or erection.

§ 156-63 and 64 Reserved.

Article VIII Zoning Board of Appeals

§ 156-65 Continuation; membership; organization; terms; vacancies.

A. The Zoning Board of Appeals heretofore established pursuant to the provisions of Town Law shall continue as the Board of Appeals for the Town of Carmel with all the powers prescribed by law and as herein described.

B. The Zoning Board of Appeals shall consist of seven (7) members, appointed by the Town Board.

C. The Town Board shall designate a member of the Zoning Board to act as Chairperson thereof as well as Vice Chairperson thereof. Upon failure to do so, the Zoning Board shall elect a Chairperson from its own members, who shall serve until such appointment by the Town Board.

D. Each member shall be appointed for a term of five (5) years.

E. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term.

F. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

§ 156-66 Meetings; records.

A. All meetings of the Zoning Board of Appeals shall be held in accordance with the schedule established by the Town Board during reorganization or at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson or, when absent, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public.

B. Such Board 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 field examination of properties under consideration by the Board and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in the office of the Town Clerk and shall be a public record.

§ 156-67 Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by Town Law and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of said Board that is conferred by law:

A. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter and any ordinance adopted pursuant to this chapter. An appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Town.

B. The Zoning Board of Appeals shall have the authority to decide any questions involving the interpretation of any provisions of this chapter.

C. The Zoning Board of Appeals shall have the authority to decide the exact location of any district boundary shown on the Town of Carmel Zoning Map.

D. Where the strict application of any of the requirements of this chapter in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical conditions would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case, the Zoning Board of Appeals shall have the power, upon appeal, to vary or adjust the strict application of the regulations or provisions of this chapter. In all cases where the Zoning Board of Appeals authorizes the issuance of a building permit or occupancy permit under any of the above powers, it shall be the duty of said Board to attach such conditions and safeguards as may be required to protect the public health, safety, morals and general welfare.

§ 156-68 Majority vote.

Every motion or resolution of the Zoning Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Zoning Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency referral, the voting provisions of section 239-m of the General Municipal Law shall apply.

§ 156-69 Appeals.

A. Appeal procedure. All appeals and applications to the Zoning Board of Appeals shall be taken in the manner prescribed by law and must be made within thirty (30) days of the date of the order, requirement, decision or determination complained of. All such appeals and applications shall be in writing, on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case. Each appeal or application shall refer to the specific provision of this

chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for and the grounds for which it is claimed that the same should be granted or the use for which a permit is sought. The officer from whom the appeal is taken shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. Notice and hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing, at least five (5) days prior to the date thereof. In addition, the Board shall, at least seven (7) days before such hearing, mail notices thereof to all owners of property which lie within five hundred (500) feet of the subject site and to other such owners as the Board may deem advisable.

C. County referral. At least five (5) days before such hearing, the Zoning Board of Appeals shall coordinate its referral as required in accordance with Section 239-m of the New York State General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined therein.

D. Compliance with SEQRA. The Zoning Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

E. Timeframe for decision. The Board shall decide the same within sixty-two (62) days after the hearing. The time within which the board of appeals must render its decision may be extended by mutual consent of the applicant and the Board. During the hearing, any party may appear in person, by agent or by attorney.

F. Decision; filing. The Zoning Board of Appeals may reverse, affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. Every decision shall be recorded in accordance with standard forms adopted by the Town and shall fully set forth the circumstances of the case and the findings on which the decision was based. Timely notice of all decisions shall be given to all parties to the proceeding.

G. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as

are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

H. Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subdivision eight of this section, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth below.

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

J. Appeal to Supreme Court from decision of Board; time limit for such appeal. Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board or bureau of the Town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

K. Use variances.

(1) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

(2) No such use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate 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) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

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

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

(3) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship 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.

L. Area variances.

(1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.

(2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

(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, 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 Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(3) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 156-70 Fees.

Applicants for the issuance of a permit by the Building Inspector for appeals and other applications to the Zoning Board of Appeals shall pay to the Town a fee established annually by the Town Board and on file in the office of the Town Clerk.

§ 156-71 through 74. Reserved.

Article IX Planning Board

§ 156-75 Continuation; membership; terms; vacancies; removal; organization.

A. The Planning Board heretofore established pursuant to the provisions of Town Law shall continue as the Planning Board for the Town of Carmel with all the powers prescribed by law and as herein described.

B. The Planning Board shall consist of seven members appointed by the Town Board.

C. Each member shall be appointed for a term of seven (7) years.

D. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term.

E. The Town Board shall have the power to remove any member of the Planning Board for cause and after public hearing.

F. The Town Board shall designate a member of the Planning Board to act as Chairperson thereof as well as Vice Chairperson thereof. Upon failure to do so, the Planning Board shall elect a Chairperson from its own members, who shall serve until such appointment by the Town Board.

G. The Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction, after public hearing by the Planning Board and subject to the approval of the Town Board.

§ 156-76 Powers and duties.

A. The Planning Board shall have power and authority to employ experts, clerks and a secretary and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the Town Board.

B. The Planning Board shall have all the powers and duties prescribed by law and by this Zoning chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of said Board that is conferred by law:

(1) The Planning Board shall have full power and authority to make such investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the Town.

(2) The Planning Board shall have full power and authority to approve, conditionally approve or disapprove:

(a) Site plan applications, as defined herein.

(b) Special use permit applications, as defined herein.

(c) Subdivision plats in accordance with the Chapter 131, Subdivision of Land, of the Code of the Town of Carmel.

(d) Lot line changes and/or lot line adjustments in accordance with the provisions § **156-86** herein.

(e) Architectural review, as regulated herein.

(f) The Planning Board may review any matter or class of matters referred to it by other boards and commissions of the Town of Carmel, as provided by Town law.

§ 156-77 through 79. Reserved.

Article X Site Plan Review; Lot Line Adjustment.

§ 156-80. Approval required.

A. No building permit shall be issued and no structure or use shall be established, other than a single-family detached dwelling and accessory uses thereto, and no certificate of occupancy for such a structure or use shall be issued until the Building Inspector is satisfied that all applicable requirements and conditions set forth herein have been met. The continued validity of any certificate of occupancy shall be subject to continued conformance with such approved site plan and conditions. Revisions of such plans shall be subject to the same approval procedure.

§ 156-81. Site plan review procedure.

A. Sketch plan review. Prior to the submission of a full site plan application, the applicant shall meet in person with the Planning Board and/or its designated representatives. The Planning Board or its designated representatives will review a sketch plan or other materials that are submitted by the applicant and shall advise the applicant preliminarily of the merits of the proposal based on a review of the Zoning chapter, its consistency with the Town Comprehensive Plan, and potential site plan issues and concerns. The Planning Board or its designated representatives will identify the data to be submitted in conjunction with the site plan application.

B. Within six (6) months following the sketch plan review, the requisite number of copies of the site plan and any related information shall be submitted to the Planning Board at least fifteen (15) days prior to the Board meeting at which the application shall be reviewed. If the site plan is not submitted within the six (6) month period, another sketch plan meeting may be required.

C. Area variance. Where a proposed site plan contains one or more features which do not comply with this Zoning chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to **Article VIII**, Zoning Board of Appeals, without the necessity of a decision or determination of the Building Inspector or a referral from the Planning Board.

D. Acceptance of site plan application. Upon receipt of an application for site plan approval, the Planning Board shall review the application and accompanying maps for completeness. Upon a determination that the application is complete, the Board shall accept the application at its next regular meeting. The date on which the Planning Board deems the application complete shall be considered to be the date an application for site plan approval is made. An application shall not be deemed complete unless a fee for site plan application has been paid as set forth below.

E. Fees. An application for a site plan approval shall be accompanied by an application fee as set by the Town Board. All application fees are in addition to any required escrow fees, and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Planning Board requires professional review of the application by the Town's planning, engineering, legal or other consultants, or if it incurs other expenses to review documents or conduct special studies in connection with the proposed application, the applicant shall be responsible for reimbursing the Town in accordance with the Fee Schedule of the Town of Carmel and may be required to contribute to an escrow account for purposes of same.

F. Violations. No site plan approval shall be issued for any use or new construction where a violation exists on the subject property of any chapter of the Town of Carmel Code or the New York State Uniform Building Codes. Further, upon written report or receipt of a notice of violation or order to cease and desist from the Building Inspector, the Planning Board shall not review, hold public meetings or public hearings, or take action regarding an application for site plan approval until notified by the Building Inspector that such violation has been cured or ceased by the applicant. A site plan application shall not be deemed complete in the absence of such notification. However, the Planning Board may, upon written recommendation of the Building Inspector, review and act on an application involving property for which there is a violation where such application is a plan to cure the violation and bring the property or use of the property into compliance with the Town Code.

G. Referrals. Upon review of the application, the Planning Board may require that additional copies of the site plan application be forwarded to one or more of the following reviewers:

(1) Town Highway Superintendent;

(2) Town Engineer, Town Planner or other department, official or agency of the Town;

(3) Emergency and community service providers, including the applicable fire and/or school district;

(4) Water, sewer, electric, gas, cable, phone, or other utility service providers;

(5) Putnam County Highways and Facilities or Putnam County Department of Health;

(6) The NYSDOT, the NYSDEC, NYSOPRHP;

(7) NYCDEP;

(8) U.S. Army Corps of Engineers, Federal Emergency Management Agency;

(9) An expert consultant qualified to advise on the subject matter as determined by the Planning Board;

(10) Any other agency or Town Committee that the Planning Board deems appropriate based on the nature of the application.

H. SEQRA. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

I. Public hearing. The Planning Board may hold a public hearing on the site plan. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required. If a hearing is held, such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of a complete site plan application. The Planning Board shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof. The applicant shall notify by mail at least five (5) days prior to the hearing all owners of property within five hundred (500) feet of the perimeter of the property, as their names appear on the municipal tax record. Said notice shall be on forms prescribed by the Planning Board and shall state the time and place of hearing, a brief description of the proposal and that a copy of the plan is on file with the Planning Board Secretary for public inspection. Proof of service shall be filed with the Planning Board prior to the hearing. Where a special use permit is required for the proposed action, the public hearing on the special use permit shall be coordinated with any hearing on the site plan application to the maximum extent possible.

J. Notice to Putnam County Planning, Development and Public Transportation. At least ten (10) days before any hearing, the Planning Board shall mail notices thereof to the Putnam County Planning Department as required by section 239-m of the General Municipal Law of the State of New York, which notice shall be accompanied by a full statement of such proposed action as defined therein. In the event a public hearing is not required, such proposed action shall be referred before the final action is taken thereon. No action shall be taken until thirty (30) days has lapsed from the date of the referral, or until a response is provided if sooner.

K. Site plan decision. The Planning Board shall render a decision within sixty-two (62) days of the close of a public hearing, or within sixty-two (62) days after receipt of a complete site plan application if no public hearing is held. The Planning Board may approve, conditionally approve, or disapprove a site plan. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The date of the decision

shall be the date on which the Planning Board meets and votes and renders the decision. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. A copy of the decision shall also be filed with the Building Inspector. The Planning Board may approve, approved with modifications or disapprove the site plan as follows:

(1) Approve. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board Chairperson shall endorse its approval on a copy of the site plan by affixing the Chair's signature thereto.

(2) Approve with modifications. The Planning Board may approve the site plan with modifications or conditions attached thereto. Upon a determination that the modifications and conditions have been met, and after payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board Chair shall endorse the site plan by affixing the Chair's signature thereto.

(3) Disapprove. The Planning Board shall set forth its findings of disapproval as part of the record of decision.

L. Conditions. The Planning Board has the authority to impose reasonable conditions and restrictions as are directly related and incidental to a site plan. The Planning Board may require that site plan approval be periodically reviewed if the intensity of the projected use and other impacts of the project are uncertain. Upon approval of the site plan, any conditions attached to said approval must be met prior to the signing and filing of the site plan map.

M. Site plan amendments. Amendments to a site plan shall be acted upon in the same manner as the approval of the original site plan. However, minor non-substantive changes to a site plan which do not change the intent of the approved site plan relative to building location, square footage, on-site circulation or minor revisions to the proposed drainage plan will not require a public hearing. The Planning Board shall determine if an amendment to an approved site plan is a substantive or non-substantive change, based on testimony from the applicant and the Board's professional staff.

N. Signing and filing. Following approval by the Planning Board and upon all conditions being met, the site plan shall be signed by the Planning Board Chairperson and filed with the Building Department. One (1) copy shall also be filed with the Building Inspector, who may thereafter issue a building permit or certificate of occupancy in reliance thereon. No changes, erasures, modifications or revisions shall be made to any site plan after approval has been granted by the Board and endorsed, in writing, on the site plan, otherwise the site plan shall be deemed void.

O. Site plan approval; maintenance a continuing obligation.

(1) Expiration of approval. Site plan approval, with or without conditions, shall expire no later than six (6) months from the date of the approval unless a building permit has been issued by the Building Inspector, or unless a certificate of occupancy has been issued by the Building Inspector in the event a building permit is not required. The Planning Board may, in its sole discretion, grant up to three (3) extensions of the site plan approval, each for a period not to exceed six (6) months. Each extension may only be granted upon written request of the applicant delivered to the Planning Board no less than ten (10) days prior to expiration of the site plan approval. No further extensions shall be granted.

(2) If a certificate of occupancy has not been issued, site plan approval shall be effective for a total period of three (3) years from the date the resolution of approval is adopted by the Board, notwithstanding any extension granted. If, at the end of the three (3) year period, the applicant has not completed construction, final site plan approval shall automatically expire and the applicant must reapply for site plan approval pursuant to this Zoning chapter.

(3) Site maintenance. It shall be a continuing obligation and requirement to maintain a property in conformity with the approved site plan. Failure to do so shall constitute a violation of the approval and this Zoning chapter.

§ 156-82. Site plan waiver.

A. Site plan approval may be waived, in whole or in part, when the site is for a conforming use or occupancy that will not enlarge an existing building and where said conforming use or occupancy would also conform to all other requirements of this Zoning chapter. To apply for a waiver, the applicant shall submit to the Planning Board a written request, setting forth the following:

(1) A detailed statement of the applicant's proposed use of the building or property, including detailed information on the conformity and adequacy of the on-site parking and loading facilities, signs, number of employees and all other applicable information required by this chapter and other Town ordinances for the proposed use in the zone in which said use is located.

(2) The applicant's reasons for requesting a waiver of all or part of the site plan requirements of this chapter.

B. In considering a request for a waiver of site plan approval, the Planning Board shall consider the standards and other requirements for said site plan approval as contained in this Zoning chapter. The Planning Board shall make findings that the approval of the waiver does not impair the intent

and purposes of this Zoning chapter.

C. The Planning Board's findings and written approval or disapproval with or without conditions of a waiver shall be forwarded to the applicant and the Building Inspector or other Town agency or department, where appropriate.

D. No fee shall be required for making a request for waiver of site development plan approval.

E. Where a request for waiver of site plan submission is filed for a site which is developed in accordance with an approved site plan and which meets all the requirements of this Zoning chapter, the Building Inspector may review and approve or disapprove the waiver request, in accordance with the regulations contained within this subsection. The Building Inspector shall notify the Planning Board of any application for a waiver of site plan submission that was received by that office and the action taken on the application.

§ 156-83. Site plan submission.

A. Application form. An application for site plan approval shall be submitted to the Planning Department on forms provided by the Department for such purpose. The application shall be reviewed by the Planning Board Secretary and Town Engineer. The application form shall be completed by the applicant and the owner and shall be accompanied by a site plan as provided herein. A site plan application form must be completed and an owner consent affidavit shall be completed in full with original signature(s) and submitted with the application. An Environmental Assessment Form shall accompany the site plan application unless the Planning Board determines that the action is an exempt action (Type II action) as that term is defined in the regulations implementing the New York State Environmental Quality Review Act.

B. Site plan. A site plan application, together with the application fee and site plan, shall be made in ten (10) copies to the Planning Board Secretary. The fee shall be set by resolution of the Town Board which shall be filed in the office of the Town Clerk. The site plan shall be drawn at a scale not smaller than one (1) inch equals fifty (50) feet, prepared by a licensed architect, licensed landscape architect, licensed surveyor, or licensed engineer under professional seal. The site plan submission and site plan map shall include the following information for the subject property:

(1) Section, block and lot number of the property as identified on the most current tax records, and Carmel project ID number.

(2) Name and address of the owner of record and name and address of the applicant, if different than the owner.

(3) Name, address and telephone number of the person, firm or organization preparing the map.

(4) Date, north arrow and written and graphic scale.

(5) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths and hundredths of a foot. All angles shall be given to the nearest ten (10) seconds or closer or equivalent in decimal degrees. The error of closure shall not exceed one (1) in ten thousand (10,000).

(6) The location, name and existing right-of-way width and pavement width of adjacent streets and curb locations.

(7) Locations and owners of adjoining property as identified on the most current tax records within five hundred (500) feet of the property boundary.

(8) Location, width and purpose of all existing and proposed easements, setbacks, reservations and other restricted areas, whether private or dedicated to public use, within or adjoining the property.

(9) A complete description and references to existing deed restrictions or covenants applicable to the subject property. The Planning Board may require submission of a copy of a title report prepared for the subject property to be reviewed by the Planning Board attorney.

(10) Principal and accessory uses of the property as set forth in the zoning district within which the property is located.

(11) Area map taken from, and at the same scale as, the Town of Carmel zoning map. Existing zoning district boundaries within five hundred (500) feet of the property lines shall be shown.

(12) A map showing all contiguous property held in the same ownership or controlled by the same applicant on the area map.

(13)A 3.5-inch blank square, in the lower right-hand corner, situated above the title block, to be used for the signatures of the Planning Board Chairperson.

(14) A reference to NYS Public Service Law Part 753 requirements (Dig Safely New York).

(15) Standard site plan notes described in the application for site plan approval.

(16) Existing and proposed contours at intervals of two (2) feet or less, referring to a datum satisfactory to the Town Engineer.

(17) Approximate boundaries of any areas subject to flooding or storm water overflows, including the one hundred (100) year and five hundred (500) year floodplain as shown on the most recent maps prepared by the Federal Emergency Management Agency.

(18) Delineated and surveyed boundaries of all water bodies and freshwater wetlands in accordance with the methodology promulgated by the Town, the U.S. Army Corps of Engineers, or the NYSDEC, as applicable. In the case of a Town and/or NYSDEC-regulated wetland, the one hundred (100) foot regulated adjacent area shall be shown.

(19) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter at breast height (dbh) of twelve (12) inches or more, measured three (3) feet above the base of the trunk, and other significant existing natural features as may be required by the Planning Board. For water courses, the water quality classification shall be included, and any

area subject to a NYCDEOP Permit and/or a NYSDEC Protection of Waters Permit shall be delineated on the plan. Any areas to be disturbed shall be shown.

(20) Location of existing and proposed uses and outline of structures on the subject property and adjacent properties, drawn to scale, within one hundred (100) feet of the lot lines.

(21) Existing and proposed streets, paved areas, sidewalks and vehicular driveways and access locations on the subject property and immediately adjacent thereto.

(22) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines as well as gas, electric, or other underground and aboveground utilities within and adjacent to the property. The potential for any use, activity, or operation to come in close proximity to electrical lines regulated under the High Voltage Proximity Act shall be identified.

(23) Other existing and proposed structures, including fences, walls, landscaping and screening. Existing and proposed retaining walls shall be shown, and the top and bottom elevation noted.

(24) The footprint or location of proposed buildings and other structural improvements and uses of land. Building footprints shall show the locations of regular and emergency access to any proposed building or use. Sufficient spot elevations shall be provided so that the elevations of any proposed improvements can be evaluated in comparison to surrounding grade. Any areas proposed for outdoor storage shall be shown.

(25) Proposed contours and grading of the site and limits of disturbance. A calculation of the total amount of disturbance shall be provided.

(26) All pertinent zoning setback and yard dimensions and parking computations. A bulk table shall be provided, identifying non-complying items or those that require a variance.

(27) Single line building floor plans and elevations to scale.

(28) The location and design of all accessory uses and facilities, including but not limited to parking and loading areas, retaining walls, fences, benches, recreation facilities, garbage enclosures.

(29) The location of all open spaces, including but not limited to recreation areas, landscaped areas, and areas to remain in their natural state.

(30) A lighting plan, showing the location, height, direction, power and time of use for any proposed outdoor lighting or public address systems.

(31) Sign location and dimensions.

(32) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas; profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks.

(33) The location and size of all proposed water, sewer, electric, gas, and drainage lines and facilities.

(34) Landscaping plan including labels for existing and proposed plants and plantings, including plant species, quantities and planting size.

(35) Soil erosion and sediment control measures.

(36) Stormwater Pollution Prevention Plan (SWPPP), if required by the Planning Board or as otherwise required in accordance with Town, NYCDEP, and/or NYSDEC regulations.

(37) Detail sheets for the various improvements shown on the site plan.

(38) A description or outline of proposed easements, deed restrictions or covenants.

(39) Any contemplated public improvement on or adjoining the subject property.

(40) If the site plan indicates a first phase only, a supplementary plan shall indicate ultimate development.

(41) A list of all required federal, state, county or local permits and approvals.

(42) An estimate of the number of employees who will be using the site on a full- or part-time basis, if applicable, and, if a nonresidential principal use, a description of the operation, including a description of the types of products to be sold, the type of machinery and equipment to be used, if any, and sufficient information to enable the Planning Board to determine the impact which such nonresidential activity may have on adjacent properties.

(43) A list, certified by the Town Assessor, of all property owners within five hundred (500) feet of all boundaries of the site.

C. Additional data. The Planning Board may require submission of any additional data or information that it deems necessary to determine conformity of the proposed action with this Zoning Chapter.

D. Stormwater management. The Planning Board shall require the applicant to submit a storm water management plan to mitigate impacts associated with increases in storm water runoff and changes in water quality. The Planning Board shall require an applicant to install adequate water quality protection devices.

E. Site plan revisions. All site plans that have been revised shall have a number noted in a triangle next to the revision, accompanied by the date and a brief descriptive summary of the revision.

§ 156-84. Review criteria.

A. The site plan's conformity to this Zoning chapter, the subdivision chapter, any adopted Comprehensive Plan and any other applicable codes, laws and ordinances of the Town of Carmel.

B. The site plan's proposed traffic flow, circulation and parking, to ensure the safety of the public and the users of the facility. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles' safe ingress and egress to and from the site and adequate sight distances shall be providrd.

C. Design review criteria.

(1) Building plans shall be reviewed in several aspects:

(a) Proportion. The relationship between the width and height of the front elevation of a building should be similar to the adjacent buildings. Proportion can also apply to the relationship between windows and doors and their relationship to the building itself.

(b) Rhythm. The rhythm of the building and its components is the spacing or repetition of architectural elements or details. The regularity, frequency and placement of doors, windows, porches and ramps and the placement within a facade is a type of rhythm. Rhythm between adjoining buildings can exist when building types are repeated along street.

(c) Scale. Scale is the relationship between architecture and people or between the architectural mass and the space which surrounds it. The scale of the Town of Carmel is intimate in nature. Any building built on a monumental scale will seem out of place and foreign. Certain already-built buildings are deemed inappropriate in some areas of the Town.

(d) Height. New buildings will be in harmony with appropriate buildings and subject to the requirements of this Zoning chapter.

(e) Facade treatment. The exterior features of all buildings should be visually and physically compatible with those facades surrounding them. Components to consider are color, texture and type of building materials. Specific details such as roof shape, cornices and moldings should be repeated to unify buildings and not used to create visual distractions.

(f) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.

(2) Development requirements.

(a) Materials will be selected to create harmony with the adjoining appropriate buildings and for suitability to the type and use of the buildings. A building shall use the same materials or those that are architecturally harmonious for all building walls and other exterior building components wholly or partly visible to the public.

(b) Colors shall be harmonious and shall use only compatible accents.

(c) Large mechanical equipment or other utility hardware on the roof, ground or buildings shall be screened from public view with materials harmonious to the building.

(d) Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with the building design.

(e) Service yards, storage area, yards and exterior work areas shall be screened from public view with materials harmonious with the building and in compliance.

(e) Dumpsters must screened from view, and shall not be located in the required front yard.

(3) General standards. The following standards shall apply.

(a) Locate the building at a minimum setback line with the maximum length of the building facing along the street to provide frequent and convenient pedestrian connections between buildings and public sidewalks; minimize the public view of large parking areas and service facilities; provide a continuous edge along the street; and visually enclose and define public street space that is comfortable to pedestrians in proportion and scale.

(b) Design and place buildings in order to preserve and enhance special street views. In particular, views of important buildings and natural features, focal points at T-intersections and views along curbs and roadways should be encouraged.

(c) Position new buildings to insure the adjacent properties have visual privacy and sunlight as well as protection from the new development's site illumination, noise and odor.

(d) In terms of shape, style, rooflines, color and materials, buildings shall be designed to complement and contribute to a desirable community character.

(e) Design landscaping and building adjacent to historic properties that are complementary to the significant historical features.

(f) Design and position buildings to screen unsightly elements, such as shipping and loading areas, transformers, dumpsters and meters, from public view.

(g) Design the building roof to screen mechanical equipment from view and contribute to an attractive visual setting.

(h) Design the building to insure adequate blending of the storm drainage requirement with the local environment.

(i) Provide a minimum ten (10) foot "buffer island" which shall be landscaped (trees, bushes, flowers, etc.) in front of all nonresidential lots, unless otherwise indicated in this Zoning

chapter.

(j) Provide a minimum twenty-foot landscaped buffer area/zone on all sides of site plan bordering residentially zoned properties. For purposes of this section, landscaping shall include native evergreen trees, plantings and/or shrubbery which in the discretion of the Planning Board shall minimize impact of proposed site plan improvements upon neighboring residential properties.

(4) A landscaping element as part of the overall site plan design to be integrated with the arrangement of building, topography, parking and buffering proposals. The landscaping proposal may include native trees, bushes, shrubs, plants, ground cover, sculpture, art and the use of building and paving materials in a design and of materials that would be compatible with the building design.

(5) The height, density and the type of planting, proposed as buffering, to be located around the perimeter of the site to minimize the glare of headlights, light from structures, noise and movement of people and vehicles and the on-site activities from adjacent properties, where necessary. Buffering may consist of fencing, trees, shrubs, bushes or combinations thereof to achieve the stated effect.

(6) The adequacy of the proposed lighting to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the Planning Board. Lights shall be arranged so as to minimize glare and reflection on adjacent properties.

(7) Signs, as per the regulations of this Zoning chapter, which shall be designed to be aesthetically pleasing, harmonious with other signs on the site and located so as to achieve this purpose without constituting hazards to vehicles and pedestrians.

(8) Storm drainage, sanitary waste disposal, water supply and garbage disposal shall be reviewed and considered with particular emphasis given to the adequacy of existing systems and the need for improvements to adequately carry runoff and sewage and to maintain an adequate supply of water at sufficient pressure.

(9) Environmental elements relating to soil erosion, preservation of trees, protection of watercourses and resources, noise, topography, soil and proposals designed to minimize any adverse impact on these elements.

(10) Standards applicable to the location and design of public and private utilities and services.

(a) Adequate provision shall be made for a sewage disposal system which shall be of sufficient size, capacity and design to collect and dispose of all sewage from all present and proposed buildings and which shall be otherwise constructed and maintained in conformity with all applicable local, state, county and Town regulations and requirements.

(b) Adequate provision shall be made for a storm drainage system which shall be of sufficient size, capacity and design to collect, carry off and dispose of all predictable surface water runoff within the area and which shall be otherwise constructed and maintained in conformity with all applicable state, county, local and Town regulations and requirements.

(c) Adequate provision shall be made for a potable water system which shall be of sufficient size, capacity and design to supply potable water to each of the buildings to be erected in the development and which shall be otherwise constructed and maintained in conformity with all applicable state, county, local and Town regulations and requirements.

(d) Adequate provision shall be made for the collection and disposal of garbage, trash and solid waste, and such system shall be maintained in conformity with all applicable state, county and Town regulations.

§ 156-85. Bonding; inspections; recreation fee.

A. Bonding and inspection.

(1) The Planning Board, in conjunction with the Town Engineer, shall set the amount for a performance bond to cover the full cost of the required improvements shown on the approved site development plan. Such bond shall insure to the Town of Carmel that the applicant will conform to the approved plan and all applicable regulations. The bond shall become effective only after the Town Attorney shall have approved the form, surety and manner of execution.

(2) The Town Engineer or other duly designated representative shall inspect the required improvements during construction to assure their satisfactory completion.

(3) The bond shall be released or reduced only by the Town Board and only after certification by the Planning Board that all or part of the required improvements have been completed in conformance with the approved plan and all applicable regulations.

B Inspection fees. The applicant shall pay to the Town of Carmel an engineering fee consisting of a percentage of the full cost of the required improvements as shown on the site plan. The percentage shall be set by resolution of the Town Board which shall be filed in the office of the Town Clerk.

C. Reservation of parkland.

(1) Before the Planning Board may approve a site plan containing residential units, such site plan shall also show, when required, a park or parks suitably located for playground or other recreational purposes.

(2) Land for parks, playgrounds, or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute.

(3) In the event the Planning Board makes a finding that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be located on the property, the Planning Board may require a sum of money in lieu thereof be provided in an amount established by the Town Board. In making such determination, the Planning Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for parks or recreational facilities, as well as practical factors including whether or not there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes shall be deposited into a fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

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

§ 156-86 Lot line adjustment.

A. Submission. In order that the Planning Board may adequately understand the proposed lot line adjustment, the initial submission shall consist of eight copies of the following documents:

(1) Application form.

(2) Copies of all prior actions of the Town Board, Zoning Board of Appeals, and any other county,

local ,state, or federal agency.

(3) Copies of any restrictions or easements on the land (copy of deed).

(4) Lot line adjustment plan. The lot line adjustment plan shall contain the information as outlined in § **156-86.E**.

B. SEQRA. A lot line adjustment is deemed a Type II action and is not subject to the regulations implementing SEQRA.

C. Fees. The review fee for lot line adjustment consideration in an amount as set forth by the Town Board and accepted in the Town of Carmel Annual Fee Schedule.

D. Procedures for the review of a lot line adjustment.

(1) An application for a lot line adjustment shall be submitted to the Planning Board at least fourteen (14) days prior to a regular meeting of the Board accompanied by ten (10) copies of a lot line adjustment map and the data set forth in Subsection E below.

(3) Within sixty-two (62) days of the receipt of a complete application the Planning Board, by resolution, shall disapprove or approve, with or without modifications and/or conditions, and authorize the signing of the lot line adjustment plan.

(4) A conditional final approval of a lot line adjustment plat shall expire within one hundred eighty (180) days of the approval if the conditions of the approval have not been complied with. The signature of the duly authorized officer(s) of the Planning Board shall constitute final approval by the Planning Board of the lot line adjustment plan. Final plat approval shall expire within sixty-two (62) days of the signing of the plan, unless such plan has been filed in the office of the County Clerk.

(5) A lot line adjustment shall not result in additional lots, any lot becoming substandard nor transfer more than twenty (20) percent or twenty thousand (20,000) square feet either lot involved in the lot line adjustment.

E. Lot line adjustment details. Lot line adjustments submitted to the Planning Board shall be drawn to a scale of not more than one (1) inch equals fifty (50) feet, submitted on uniform size sheets not more than thirty-six (36) inches by forty-eight (48) inches and shall show the following information:

(1) Proposed project name or identifying title (must include "lot line adjustment" in the title).

(2) Date, North point, and scale.

(3) Name, address, seal and signature of professional engineer or land surveyor preparing the plat.

(4) A key map at a scale of one inch equals eight hundred (800) feet, showing the relation of the portion to be subdivided to the entire tract and the relation of the entire tract to its neighborhood for at least five hundred (500) feet beyond its boundaries.

(5) A legend, including names of all adjacent landowners and those within five hundred (500) feet of any property line; zoning district the site is located in with the requirements of said zone compared to the proposed standards, as well as the abutting zones in the subdivision; and names and addresses of owner(s).

(6) All proposed lot lines, dimensions in feet and the areas of all lots in square feet; metes and bounds description of all proposed lot lines.

(7) The location of proposed setback lines (setback envelope).

(8) Existing or proposed covenants or deed restrictions applying to the site.

(9) Location, composition, and approximate size of all monuments.

(10) Signature block for Planning Board Chairperson to endorse approved plat.

(11) Label "old" and "new" property lines.

(12) Location of all structures, wells, septic systems, sewer and water lines.

(13) Putnam County Department of Health approval.

§ 156-87 through 89. Reserved.

Article XI Wireless Telecommunications

§ 156-90 Wireless telecommunication structures and facilities.

A. Legislative intent.

(1) The Telecommunications Act (TCA) of 1996 affirms the Town of Carmel's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The Town Board finds that wireless telecommunications facilities can, if not properly regulated, pose a unique hazard to the health, safety, public welfare and environment of the Town and its inhabitants. The Town also recognizes that wireless service technology can be a communication asset to the Town and its residents. To ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town shall regulate these facilities in accordance with this section. These regulations are intended to minimize the potential negative impact of wireless telecommunications facilities, establish an efficient process for review of applications, assure an integrated comprehensive review of environmental and aesthetic effects of such facilities, and protect the health, safety and welfare of the Town of Carmel.

(2) Further, in 2009, the Federal Communications Commission (FCC) adopted Declaratory Ruling (WT Docket No. 08-165), which sets forth timeframes in which a municipality must act upon a wireless telecommunications facility application ("Shot Clock"). In 2012, Congress enacted the Middle Class Tax Relief and Job Creation Act ("TRA"), which imposes additional limitations on State and local laws and regulations pertaining to the siting and modification of wireless telecommunications facilities. The FCC's October 21, 2014, Wireless Infrastructure Report and Order defines substantial and non-substantial modifications to existing cell sites and provides information on small cells and DAS and work in the public ROW. A September 26, 2018, Declaratory Ruling and Third Report and Order (FCC 18-133) describes FCC-identified regulatory "barriers" that inhibit the deployment of infrastructure including small cells necessary for network densification, 5G, and other advanced wireless services. In recognition of changes in wireless technology and an evolving regulatory framework, this Article establishes regulations to review and process wireless telecommunications facilities consistent with federal regulations.

(3) The Town Board finds that the regulation of wireless telecommunications facilities is necessary to protect the predominantly suburban and rural residential character of the Town and the property values of the community; such regulation is needed to protect schools, parks, churches, playgrounds and historic structures; to preserve scenic areas; important commercial corridors; to minimize aesthetic impacts; to preserve the health and safety of residents; and to

respect the need of wireless telecommunications service providers to relay signals without electronic interference from other service providers' operations, while not unreasonably limiting competition among them.

(4) The Town Board declares that the protection of residential areas of the Town is of paramount importance and that any local regulations of wireless telecommunications facilities must furnish all possible protection for residential areas, and further declares that the provisions of this section are to be interpreted to favor protection of residential areas. The Planning Board shall, before issuing a special use permit for a wireless telecommunications facility in a residentially zoned area, satisfy itself that all other alternatives have been exhausted.

(5) The Town Board finds that the aesthetic appearance of wireless telecommunication facilities is a paramount concern, particularly along the Town's important commercial corridors.

(6) In general, shared use and collocation of antennas and antenna-mounting structures are preferred to the construction of new facilities.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ADMINISTRATIVE APPROVAL

Zoning approval that the Director of Code Enforcement or designee is authorized to grant after administrative review.

ADMINISTRATIVE REVIEW

Nondiscretionary evaluation of an application by the Director of Code Enforcement or designee. The process is not subject to a public hearing. The procedures for administrative review are established in Subsection **D** of this section.

ANSI

The American National Standards Institute.

ANTENNA

A system of electrical conductors for radiating or receiving radio waves.

ANTENNA, WIRELESS TELECOMMUNICATIONS

Any device, including the supporting structure and all related appurtenances, used for the transmission and reception of radio waves as part of wireless two-way communications.

BASE STATION

(1) A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. "Base station" includes, without limitation:

(a) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(c) Any structure other than a tower that, at the time the relevant application is filed with the Town under this section, supports or houses equipment defined as a "wireless telecommunications facility" that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

(2) The term does not include any structure that, at the time the relevant application is filed with the Town under this section, does not support or house equipment defined as a "wireless telecommunications facility."

COLLOCATION

The mounting or installation of a subsequent wireless telecommunications antenna and related transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

ELIGIBLE FACILITY REQUEST or ELIGIBLE FACILITIES REQUEST

Any request for a wireless communications facility that does not involve substantial change to the physical conditions of a tower, base station or building involving:

(1) Collocation of new transmission equipment in a high-priority area as defined in Subsection I; or

(2) Removal of transmission equipment; or

(3) Replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE

Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Building Department under this section.

EXISTING FACILITY

A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.

FCC

The Federal Communications Commission.

FREQUENCY

The number of sinusoidal cycles made by electromagnetic radiation in one second; usually expressed in units of hertz (Hz).

NIER (NONIONIZING ELECTROMAGNETIC RADIATION)

Electromagnetic radiation of such frequency that the energy of the radiation does not dissociate electrons from their constituent atoms when an atom absorbs the electromagnetic radiation.

RF

Radio frequency.

STEALTH TECHNOLOGY

A cellular telecommunications facility that is designed to blend into the surrounding environment. Examples of stealth facilities include:

(1) Architecturally screened roof-mounted antennas;

(2) Building-mounted antennas painted to match the existing structure;

(3) Antennas integrated into architectural elements; and

(4) Antenna structures designed to look like light poles, trees, clock towers, bell steeples, or flag poles.

SUBSTANTIAL CHANGE

A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(1) The mounting of the proposed antenna on existing towers, other than towers in the public rights-of-way, would increase the existing height of the tower by more than ten (10) percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to avoid interference with existing antennas;

(2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4), or more than one (1) new equipment shelter;

(3) The mounting of the proposed antenna would involve adding an appurtenance to the body of existing towers, other than towers in the public rights-of-way, that would protrude from the edge of the towers more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable;

(4) The mounting of the proposed antenna would involve excavation outside the current existing structure site, defined as the current boundaries of the leased or owned property surrounding the existing structure and any access or utility easements currently related to the site;

(5) The modification defeats concealment and/or stealth elements of the support structure; or

(6) The modification does not comply with prior conditions of the approval for the existing structure site; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

TOWER

Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless

communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

TRANSMISSION EQUIPMENT

Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supplies. The term includes equipment associated with wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

WIRELESS TELECOMMUNICATION FACILITIES

Any facility for the receiving or transmitting of wireless signals for commercial purposes, such as cellular telephone services, personal communication services (PCS), specialized mobile radio (SMR), enhanced mobile radio (ESMR), paging, satellite digital audio radio service (SDARS), fleet communication systems and similar commercial facilities, whether operated in support of another business activity or available for the transmission of signals on a sale or rental basis. As used herein the term shall include any necessary support structure, connection cables and equipment buildings as well as towers or monopoles.

C. Special use permit; policies and goals. In order to assure that the placement, construction and modification of wireless telecommunications facilities conforms to the Town of Carmel's purpose and intent of this section, such facilities shall require the approval of a special permit. Consideration of a wireless telecommunications facility special permit shall address the following goals:

(1) Establish an application procedure for person(s) seeking a special permit for a wireless telecommunications facility.

(2) Establish a policy for examining an application for and issuing a special permit for a wireless telecommunications facility that is both fair and consistent.

(3) Establish reasonable time frames for granting or not granting a special use permit for a wireless telecommunications facility.

(4) Promote and encourage, wherever possible, the sharing and/or collocation of a wireless telecommunications facility among service providers.

(5) Promote and encourage, wherever possible, the placement of a wireless telecommunications

facility in such a manner as to cause minimal disruption to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such facility.

(6) Minimize any adverse aesthetic impacts to the community through the proper siting, location, screening, buffering or through the application of effective and innovative design measures and stealth technology.

D. Eligible facilities request; approval.

(1) The Town has determined that the full special permit review procedure is unnecessary for certain wireless communications facilities that do not involve a substantial change to the physical characteristics of an existing tower, base station or building involving:

(a) Collocation of new transmission equipment in a high priority area as defined in Subsection **I**; or

(b) Removal of transmission equipment; or

(c) Replacement of transmission equipment.

(2) Type of review. Upon receipt of an application for an eligible facilities request, the Director of Code Enforcement or designee shall review such application to determine whether the application so qualifies as an eligible facility request as defined in this section. If determined to be an eligible facility request, such application shall undergo an administrative review, as defined herein. If it is determined that there will be a substantial change to an existing facility, this section shall not apply.

(3) Application. An application form provided by the Building Department shall be provided which shall establish the information necessary for the Town to consider whether an application is an eligible facilities request. Each application shall include the following:

(a) An application form provided by the Building Department.

(b) A radio frequency safety report demonstrating compliance with FCC safety standards.

(c) Certification that the installation will comply with visual standards set forth in Subsection **P**.

(d) The payment of a fee for an eligible facilities request, as stated in the Town of Carmel Schedule of User Fees.

(4) Timeframe for review. Within sixty (60) days after an eligible facilities request has been received, the Director of Code Enforcement or designee shall approve the application unless it has been determined that the application creates a substantial change or otherwise does not meet the criteria of an eligible facilities request. Once an eligible facility request application has been approved, the Director of Code Enforcement shall issue a building permit.

(5) Tolling of time frame for review.

(a) The sixty (60) day review period begins to run when the application is filed, and may be tolled by mutual agreement by the Director of Code Enforcement and the applicant.

(b) The time frame for review may also be tolled when the Director of Code Enforcement or designee determines that the application is incomplete. When an application has been determined to be incomplete, the following process shall be used to toll the time frame for review:

[1] The Director of Code Enforcement or designee shall provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application or such other reasons why the application has been determined to be incomplete.

[2] Within ten (10) days of a supplemental submission, the Director of Code Enforcement or designee will notify the applicant if the application has been deemed complete. If application is still found to be incomplete after a supplemental submission, the applicant must provide additional supplemental submissions until the application has been deemed complete.

[3] The time frame for review will not begin to run again until the application has been deemed complete.

(6) Failure to act. In the event the Director of Code Enforcement or designee fails to approve or deny a request seeking approval under this section within the time frame for review, accounting for any tolling, the application shall be approved. However, such approval does not become effective until the applicant notifies the Director of Code Enforcement in writing after the review period has expired, accounting for any tolling, that the application has been approved.

(7) Interaction with § n(c)(7). If it is determined that the applicant's request is not covered by § 6409(a) as delineated under this section, the presumptively reasonable time frame under

§ (c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under § 332(c)(7), pursuant to the limitations applicable to other § (c)(7) reviews.

E. Procedure for special permit application; fee.

(1) All applicants for a special permit for a wireless telecommunications facility or any modification of such facility and renewal thereof shall comply with the requirements set forth in this section.

(2) The applicant shall be required to provide sufficient funds to an escrow account to allow the Planning Board to retain such technical experts as may be necessary to review the proposal, provided that no funds shall be deposited until a scope of work is agreed upon among the applicant, the expert and the Planning Board. In any event, the initial deposit shall be a minimum of thirty-five hundred dollars ($3,500). A larger deposit may be required if, in the judgment of the Planning Board, the complexity and scope of the proposal requires additional expert review. The applicant shall maintain the escrow account at the amount of the initial deposit and replenish same in a timely manner. Payment in full thereto shall be a condition precedent to any approval by the Planning Board. Any unused funds will be returned to the applicant upon completion of the review. The withdrawal of an application shall not relieve the applicant of the payment obligations of this section.

(3) The Planning Board is hereby authorized to issue a special permit under the provisions of this section subject to all of the special requirements and conditions herein and any requirements which may be made a part hereof. Every special permit shall also conform to all special findings that are specified herein.

(4) Application to the Planning Board for a special permit under this section shall be accompanied by a fee in accordance with the current Town fee schedule.

(5) Prior to or concurrent with the filing of a formal application to the Planning Board to obtain a special permit under this section, the applicant shall submit information needed to meet the requirements of the New York State Environmental Quality Review Act (SEQR). The Planning Board may hold a joint public hearing under the provisions of SEQR and this section whenever practicable. In the event that a final SEQR determination has not been made, no application for a special permit under this section shall be granted. The time periods in which the Planning Board may take action may be extended with the consent of the applicant.

(6) The owner of the subject property shall be joined as a co-applicant.

(7) In addition to any other applicable notice requirements established elsewhere in the Town Code, the applicant shall cause notice of the public hearing by notifying all property owners by certified mail, return receipt requested, within one thousand (1,000) feet of the boundary line of the subject property.

(8) The applicant is required to provide a physical mockup of the proposed project.

F. Information required for wireless telecommunications antennas.

(1) For all proposed wireless telecommunications antenna, the following information shall be provided:

(a) Name and address of the property owner and the applicant.

(b) Address, lot and block and/or parcel number of the property.

(c) Zoning district in which the property is situated.

(d) Name and address of the person preparing the plan.

(e) Size of the property and the location of all lot lines.

(f) Approximate location of nearest residential structure.

(g) Approximate location of nearest occupied structure.

(h) Location of all structures on the property which is the subject of the application.

(i) Location, size and height of all proposed and existing antennas and all appurtenant structures on the property.

(j) Type, size and location of all proposed landscaping.

(k) A report by a New York State licensed professional engineer documenting compliance with applicable structural standards and describing the general structural capacity of any proposed installation.

(l) The number and type of antennas proposed.

(m) A description of the proposed antennas and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.

(n) A description of the antenna's function and purpose.

(o) The make, model and manufacturer of the antenna.

(p) The frequency, modulation and class of service.

(q) Transmission and maximum effective radiated power.

(r) Direction of maximum lobes and associated radiation and compliance with FCC regulations.

(s) Consent to allow additional antennas (for purposes of collocating) on any new antenna towers, if feasible.

(t) If a collocation, the cumulative impacts, visual and otherwise, of the proposed antenna.

(2) The items in Subsection **F(1)(l)** through **(r)** shall be included in a report prepared by a radio frequency engineer, health physicist or other qualified professional.

G. Facility service plan. All proposals to provide or operate wireless telecommunications facilities shall be accompanied by a facility service plan, which shall include all the information necessary to allow the Planning Board to understand the existing, proposed and long-range plans of the applicant. The facility service plan shall include at least the following information:

(1) The location, height and operational characteristics of all existing facilities of the applicant in and immediately adjacent to the Town.

(2) A two-to-five-year plan for the provision of additional facilities in and immediately adjacent to the Town, indicating whether each proposed facility is for initial coverage or capacity-building purposes and showing proposed general locations or areas in which additional facilities are expected to be needed. Subsequent applications will confirm or modify the facility service plan so that the Planning Board may be kept up-to-date on future activities.

(3) A commitment to collocate or allow collocation wherever possible on all existing and proposed facilities.

H. Requirements applicable to all wireless telecommunications antennas. For all proposed wireless telecommunications antenna the following requirements are applicable:

(1) For proposed sites within one hundred (100) feet of other sources of RF energy, emanating from other wireless telecommunications facilities, the applicant shall provide an estimate of the

maximum total exposure from all nearby stationary sources and a comparison with relevant standards. This assessment shall include individual and ambient levels of exposure. It shall not include such residentially based facilities such as cordless telephones.

(2) All obsolete or unused wireless telecommunications antennas (including tower supports) shall be removed within sixty (60) days of cessation of operations at the site. The Town may remove such facilities upon reasonable notice and an opportunity to be heard and treat the cost as a tax lien on the property. The Planning Board may also require, at the time of approval, the posting of a bond sufficient to cover the costs of removing an abandoned wireless telecommunications facility.

(3) All antennas shall be identified with signs not to exceed six (6) square feet, listing the owner's or operator's name and emergency telephone number, and shall be posted in a conspicuous place.

(4) New antennas may not be sited within five hundred (500) feet of any existing antenna. This restriction does not apply to the siting of new antennas at an existing site.

(5) No source of NIER, including facilities operational before the effective date of this section, shall exceed the federal or state NIER emission standard.

(6) New antennas and supporting towers shall be designed to accommodate additional antennas for purposes of collocating.

I. Location of wireless telecommunications facilities.

(1) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities, including towers and other tall structures, in accordance with the following priorities, one being the highest priority and six being the lowest priority:

Priority Level	**Description**
1	On existing tall structures or wireless telecommunications towers in nonresidential zoning districts
2	Collocation on a site with existing wireless telecommunications towers or structures in nonresidential districts, not fronting on NYS Routes 6, 6N, 52 and 301
3	Collocation on a site with existing wireless telecommunications towers or structures in any other nonresidential districts
4	Installation of a new wireless telecommunications facility in any nonresidential district

Priority Level	Description
5	Installation of a new wireless telecommunications facility in any residential district
6	On other property in the Town

(2) If the proposed site for a wireless telecommunications facility is not the highest priority listed above, then a detailed explanation must be provided as to why a site of higher priority was not selected. The applicant must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

(3) An applicant may not bypass a site of higher priority by stating that the site presented is the only site selected or secured. An applicant shall address collocation as an option, and, if such option is not proposed, the applicant shall explain why collocation is impracticable. Agreements between providers limiting or prohibiting collocation shall not be considered a valid basis for a claim of impracticability. Notwithstanding the above, the Planning Board may approve any site located within an area in the above list of priorities, provided that the Planning Board finds that the proposed site is in the best interests of the health, safety and welfare of the Town of Carmel and its inhabitants.

(4) The applicant shall submit a report demonstrating the applicant's review of the above priorities demonstrating the technical reasons for the site selection and, if the site selected is not the highest priority, a detailed explanation of why sites of higher priority were not selected.

(5) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Board may disapprove an application for any of the following reasons:

(a) Conflict with safety and safety-related codes and regulations.

(b) Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws.

(c) Conflict with the historic nature of a neighborhood.

(d) The use of a wireless telecommunications facility which is contrary to an already stated purpose of a specific zoning or land use designation.

(e) The placement and location of a wireless telecommunications facility which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the Town or employees of the service provider or other service providers.

(f) Conflicts with the provisions of this section.

J. Antenna locations where public exposure is likely. For roof-mounted, collocated or other situations in which public exposure is likely, the application shall include:

(1) An assessment of potential public exposure to radio frequency (RF) energy from the proposed facility indicating the facility's compliance with applicable federal or state standards. The applicant shall identify the maximum exposure level, the locations at which this occurs and the estimated RF levels at specific locations of community interest, such as schools, residences or commercial buildings. Assumptions used in the calculations shall be stated, including building heights and topography.

(2) A multiple-source exposure impact assessment shall be prepared if the wireless telecommunications facility is to be situated on the same site as existing facilities, such as a tower or roof.

(3) Evidence that the maximum exposure to the general public will not exceed federal or state standards.

(4) An identification of rooftop areas to which the public may have access. The exposure in these areas shall be in compliance with the standards established by any federal or state agencies.

(5) An identification of how much of the roof, if any, should be designated a "controlled environment" due to RF field levels in accordance with the applicable federal or state standard.

(6) Notification of the building management if any portion of the roof needs to be identified as a "controlled environment" due to RF levels in excess of the guidelines in the applicable federal or state standards.

K. Roof-mounted antennas. Requirements applicable to roof-mounted antennas are as follows:

(1) Antennas shall not be placed more than fifteen (15) feet higher than the height limitation for buildings and structures within the zoning district in which the antenna is proposed to be erected.

(2) Antennas may be set back from the outer edge of the roof a distance equal to or greater than

10% of the rooftop length and width, or such antennas may be attached directly to the roof parapet wall, whichever, in the Planning Board's opinion, will have the minimal visual impact while achieving signal coverage requirements.

(3) If the Planning Board requests, antennas shall be the same color of the exterior of the top floor or parapet of the building except to the extent required by law.

L. New wireless telecommunications towers.

(1) The applicant shall demonstrate to the satisfaction of the Planning Board that there exists no tower on which the antenna may collocate or that collocation is not feasible for any of the following reasons:

(a) The applicant has been unable to come to a reasonable agreement to collocate on another tower. The names, addresses, phone and fax numbers of other service providers approached shall be provided, accompanied by a written statement as to the reason an agreement could not be reached.

(b) The antenna will not unreasonably interfere with the view of or from any park, designated scenic area, historic district, site or structure.

(c) The radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.

(d) The applicant's network of antenna locations is not adequate to properly serve its customers, and the use of facilities of other entities is not suitable for physical reasons.

(e) Adequate and reliable service cannot be provided from existing sites in a financially and technologically feasible manner consistent with the service providers' system requirements.

(f) Existing sites cannot accommodate the proposed antenna due to structural or other engineering limitations (e.g., frequency incompatibilities).

(g) For proposed monopole or tower facilities, there is a report by a New York State licensed professional engineer specializing in structural engineering certifying that the proposed design is structurally sound.

(2) Any application for the approval of a special permit for a wireless telecommunications facility shall include a report by a qualified radio frequency engineer, health physicist or other qualified professional, as determined by the Planning Board, which calculates the maximum amount of

nonionizing electromagnetic radiation (NIER) which will be emitted from the proposed wireless telecommunications facility upon its installation and demonstrates that the facility will comply with the applicable federal or state standards.

M. NIER measurements and calculations. All applicants for wireless telecommunications facilities in any district shall submit calculations of the estimated NIER output of the antenna(s). For antennas mounted on an existing structure not requiring a special permit, the calculations shall be provided to the Director of Code Enforcement prior to the issuance of a permit. For antenna applications requiring a special permit, the calculations shall be provided to the Planning Board at the time of making the application for special permit. NIER levels shall be measured and calculated as follows:

(1) Measuring equipment used shall be generally recognized by the Environmental Protection Agency (EPA), National Council on Radiation Protection and Measurement (NCRPM), American National Standards Institute (ANSI), or National Bureau of Standards (NBS) as suitable for measuring NIER at frequencies and power levels of the proposed and existing sources of NIER.

(2) Measuring equipment shall be calibrated as recommended by the manufacturer in accordance with methods used by the NBS and ANSI, whichever has the most current standard.

(3) The effect of contributing individual sources of NIER within the frequency range of a broadband measuring instrument may be specified by separate measurement of these sources using a narrow band measuring instrument.

(4) NIER measurements shall be taken based on maximum equipment output. NIER measurements shall be taken or calculated when and where NIER levels are expected to be highest due to operating and environmental conditions.

(5) NIER measurements shall be taken or calculated along the property lines at an elevation six feet above grade at such locations where NIER levels are expected to be highest and at the closest occupied structure.

(6) NIER measurements shall be taken or calculated following spatial averaging procedures generally recognized and used by experts in the field of RF measurement or other procedures recognized by the FCC, EPA, NCRPM, ANSI or NBS.

(7) NIER calculations shall be consistent with the FCC, Office of Science and Technology (OST) Bulletin 65 or other engineering practices recognized by the EPA, NCRPM, ANSI, MBS or similarly qualified organization.

(8) Measurements and calculations shall be certified by a New York State licensed professional

engineer, health physicist or a radio frequency engineer. The measurements and calculations shall be accompanied by an explanation of the protocol, methods and assumptions used.

N. NIER monitoring and enforcement.

(1) The owner and/or operator of the antenna shall perform a NIER level reading as set forth above and shall submit the results of the test to the Town of Carmel Director of Code Enforcement Department within 90 days of initially operating the antenna system, and annually thereafter. The owner or operator shall provide a report from a qualified professional who shall certify, under penalties of perjury, that the installation does not expose the general public to NIER standards in excess of those of any federal or state agency regulating RIF-energy.

(2) The Town may measure NIER levels as necessary to ensure that the federal or state standards are not exceeded. Any approval of a wireless telecommunications facility shall be conditioned upon an offer of perpetual consent to allow the Town access to the premises to conduct the required NIER monitoring, should the operator of the wireless communications facility fail to do so.

(3) If the standards of any federal or state agency are exceeded at the location of a proposed transmitting antenna, the proposed facility shall not be permitted.

O. Bulk regulations and height.

(1) In all zoning districts, all wireless telecommunications facilities shall comply with yard requirements of this chapter for principal buildings. No wireless telecommunications facilities may be located between the principal structure and the street.

(2) In residential districts, wireless telecommunications facilities shall not exceed fifty (50) feet in height unless the requirements of Subsection **O(3)** below are met. In nonresidential districts, wireless telecommunications facilities shall not exceed one hundred (100) feet in height unless the requirements of Subsection **O(3)** below are met.

(3) In the event that applicants propose a height greater than that listed above, the applicant must demonstrate to the satisfaction of the Planning Board that:

(a) Alternative means of mounting the antenna have been considered and are not feasible for the applicant.

(b) The height is the minimum height necessary for adequate operation to meet the applicants' communications needs and the aesthetic intrusion has been minimized to the greatest

extent practicable.

(c) The height does not exceed fifty (50) percent of the maximum height listed in Subsection **O(2)** above.

(d) The site or building on which the facility is proposed to be installed does not become nonconforming or increase in nonconformity by reason of the installation of wireless telecommunications facilities. This includes, but is not limited to, yard, buffer, height, floor area ratio for equipment buildings, parking, open space and other requirements. The height requirements of this chapter shall apply to buildings and equipment shelters.

(4) Notwithstanding anything stated herein, the Planning Board shall be permitted to increase the height of any tower beyond any limitations set forth herein in order to accommodate additional users. In reviewing a request for greater height, the Planning Board shall balance the effect of a greater height against the provision of one or more additional towers, collocating or other alternatives.

(5) In residential districts, wireless telecommunications towers and monopoles shall be separated from residential buildings on adjacent or abutting properties by a distance not less than two (2) times the height of the tower or monopole. This provision shall apply to the proposed use for wireless telecommunications facilities of towers or monopoles existing at the time of adoption of this section.

P. Visual impact.

(1) For all new wireless telecommunication facilities, the applicant shall provide to the Planning Board a short Environmental Assessment Form (EAF), Part I and Visual EAF Addendum, Appendix A and B, including graphic information that accurately portrays the visual impact of the proposed facility from various vantage points selected by the Planning Board or the Planning Board's consultants, such as, but not limited to, residential areas, major commercial corridors, parks, historic buildings or scenic areas, including nighttime visual impacts. This graphic information may be provided in the form of photographs or computer-generated images with the tower superimposed, as may be required by the Planning Board or its consultants.

(2) The applicant shall provide a temporary physical mockup of the proposed project. The mockup shall be mounted in the same location(s) at the project site as the proposed project and shall be the same dimensions, color and set at the same height and width as the proposed project. The mockup shall be installed two (2) weeks prior to the initial appearance before the Planning

Board, and shall remain in place until the Planning Board renders its decision on the application. The applicant shall obtain authorization for the installation of this temporary mockup from the Building Department, to ensure the mockup is installed safely, and does not represent a hazard to public safety. The mockup shall be removed no later than two days after the close of the public hearing where the proposed project is considered.

(3) For all buildings or equipment shelters to be located in a residential zoning district, the equipment shelter shall be treated in an architectural manner compatible with the residences in the vicinity.

(4) Careful consideration of design details including color, texture, and materials shall be made to ensure the stealth design of the wireless telecommunication facility.

(5) All building-mounted wireless telecommunication facilities shall be, at a minimum, designed as stealth facilities. Design techniques shall be employed to minimize visual impacts and provide appropriate camouflage.

(6) All building-mounted wireless telecommunication facility components, including all antenna panels, shall be painted or be designed to match the predominant color and/or design of the structure so as to be visually inconspicuous.

(7) A minimum of three (3) live trees with a minimum height of twenty (20) feet shall be planted in close proximity to a wireless telecommunications facility designed as a faux tree. The Planning Board may require additional live mature plantings to assist in mitigating visual impacts of wireless telecommunication facilities designed as faux trees.

(8) Where a wireless telecommunications facility is proposed to be located on a building rooftop, the associated equipment shall be enclosed within an architecturally integrated penthouse or otherwise be completely screened to the satisfaction of the Planning Board. Required screening shall be decorative, of a design, color, and texture that is architecturally integrated with the building it is on.

(9) Associated equipment shall be enclosed by a fence, landscaped screening decorative wall, or other screening and buffering measures found to be acceptable by the Planning Board.

Q. Color and lighting standards. Except as specifically required by the Federal Aviation Administration (FAA) or the FCC, antennas, including the supporting structure and all related appurtenances, shall:

(1) Be colored to reduce the visual impact to the greatest degree possible.

(2) Not be illuminated, except that a building may have lighting required by the New York State Fire Prevention and Building Code or when required for security reasons. When lighting is used, it shall be compatible with the surrounding neighborhood to the greatest degree practicable.

R. Fencing and NIER warning signs.

(1) The area surrounding the facility shall:

(a) Be fenced or otherwise secured in a manner which prevents unauthorized access by the general public to areas where the standards of any federal or state agency are exceeded.

(b) Contain appropriate signage to warn of areas of the site where:

[1] NIER standards are exceeded.

[2] High risks for shocks or burns exist.

(2) For wall-mounted antennas, the signage shall be placed no more than five (5) feet off the ground.

(3) No other signage, including advertising, shall be permitted at the facility, antenna or tower or supporting structure, unless required by law.

S. NIER exposure standards. No antenna or combination of antennas shall expose the general public to NIER levels exceeding the standard of any federal or state agencies having jurisdiction. In addition, no antenna facility shall emit radiation such that the general public will be exposed to shock and burn in excess of the standards contained in ANSI C-95.1.

T. Registration of antenna operators. The Building Department shall keep a list of the names, addresses, type and maximum emissions of all antenna operators in the Town. This list shall be maintained from applications to the Planning Board and Building Department and from FCC or similar inventories of facilities in the Town. If the name or address of the owner or operator of the antenna facility is changed, the Building Department shall be notified of the change within thirty (30) days.

U. Expiration of special use permit.

(1) The special permit shall be issued to the use that was the subject of the application and shall expire upon the termination of such use.

(2) The Director of Code Enforcement shall require issuance of a revised or new special permit prior to the issuance of a building permit where the proposal requires a special permit use under this section.

(3) After issuance of a building permit, the applicant shall provide a report to the Director of Code Enforcement prepared by a New York State licensed professional engineer certifying that any monopole or tower has been constructed in accordance with the plans approved by the Director of Code Enforcement.

(4) All special use permits issued for any wireless telecommunications facility shall be renewed every two years from the effective date of the approval of the facility. An application for renewal shall be made to the Planning Board. The Planning Board shall review any and all changes in circumstances influencing the wireless telecommunications facility, or the actual facility itself, including its operation and use. If circumstances have materially changed, then the Planning Board shall reconsider the special use permit approval. Failure to renew the special use permit, or the denial of the renewal by the Planning Board, shall result in the removal of the wireless telecommunications facility in accordance with this section.

V. Existing installations. Any wireless telecommunications facility legally existing at the time that this section takes effect shall be permitted to continue, provided that the operator submits proof within six months of the enactment of this section that a valid building permit has been issued for the facility and that the facility complies with the standards adopted by the Federal Communications Commission and all requirements of this section, as certified by a professional engineer with qualifications acceptable to the Town of Carmel.

W. Severability. Should any section, paragraph, sentence, clause, word or provision of this section be declared void, invalid or unenforceable, for any reason, such decision shall not affect the remaining provisions of this section.

Article XII Administration and Enforcement

§ 156-91 Enforcement official.

A. This chapter shall be enforced by any official authorized to issue and serve appearance tickets under Chapter **3** of the Code of the Town of Carmel and the Laws of the State of New York.

B. The Building Inspector shall examine all applications for permits for the construction, alteration, enlargement and occupancy with uses which are in accordance with the requirements of this Zoning chapter and for all nonconforming uses and buildings existing at the time of passage of this Zoning chapter.

§ 156-92 Records; reports.

A. The Building Inspector shall maintain files of all applications for building permits and plans submitted therewith, as well as for certificates of occupancy.

B. The Building Inspector shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter and of the action taken consequent to each such complaint.

C. The Building Inspector shall submit a written report to the Town Board at intervals of not greater than three (3) months, summarizing, for the period since the last previous report, all building permits and certificates of occupancy issued, all complaints of violations and the action taken by that office consequent thereon.

§ 156-93 Building permits.

A. No building or structure in any district shall be erected, enlarged or structurally altered nor any use thereof changed nor any use commenced on a vacant parcel of land without a building permit duly issued by the Building Inspector. No building permit shall be issued by the Building Inspector for any building or structure unless in conformity with the provisions of this chapter, except upon the receipt of a written authorization from the Zoning Board of Appeals as provided in this Zoning chapter.

B. All applications for building permits and supporting documentation shall be made in duplicate and accompanied by plans in duplicate, drawn to scale, showing the following:

(1) An accurate survey, at an appropriate scale, showing shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected or of the lot on which it is situated if an existing building.

(2) The Tax Map, block and lot numbers as they appear on the Official Tax Map of the Town of Carmel.

(3) The exact size and location on the lot of the proposed building or buildings or alteration of an existing building and of other existing buildings on the same lot.

(4) The dimensions of all yards in relation to the subject building and the distance between such building and any other existing buildings on the same lot.

(5) The existing and intended use of all buildings, existing or proposed, or of land and the number of dwelling units that a residential building is designed to accommodate.

(6) Such topographic or other information with regard to the building, the lot or neighboring lots, on-site parking and loading as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.

(7) The locations, widths and grades of driveways serving such automobile parking areas and truck loading areas, together with information regarding the proposed surfacing of such parking and loading areas and driveways.

(8) The type(s) of dissimilar building designs proposed shall be illustrated by accompanying front elevation sketches drawn to scale and the distribution plan for the dissimilar building types shall be located on the preliminary plat.

(9) The valuation of the proposed work. All dimensions shown on this plan relating to the location and size of the lot to be built upon shall be based on an actual survey. The lot shall be staked out on the ground before construction is started so that the Building Inspector may determine by measurement in the field that the yard requirements for the district in which the site is located have been met.

C. On the issuance of a building permit, the Building Inspector shall return one copy of all documents filed to the applicant.

§ 156-94 Certificates of occupancy.

Certificates of occupancy shall be issued in accordance with Chapter **59**, Building Construction and Fire Prevention, Article **I**.

§ 156-95 Filing complaints; investigations; notice of violation; remedies.

A. Any person may file a complaint if there is any reason to believe a violation of this chapter exists.

All such complaints shall be filed with the Building Inspector, who shall record such complaint and immediately investigate it. Upon becoming aware of any violation of any provisions of this chapter, the Building Inspector shall serve notice of such violation on the person committing or permitting the same. If such violation has not ceased within a reasonable period of time, as specified in such notice and/or a new certificate of occupancy obtained as provided in this chapter, he shall institute such action as may be necessary to terminate the violation.

B. In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or of any ordinance or regulation made under authority conferred hereby, the Town board or, with its approval, the Building Inspector or other proper official, in addition to other remedies, may institute any appropriate legal action or proceedings to prevent such unlawful erection, construction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use about such premises. The Building Inspector shall serve notice by registered mail, addressed to the premises of such violation, on the person or corporation committing or permitting the same. If such violation does not cease within such time as the Building Inspector may specify, he shall institute such of the foregoing action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.

§ 156-96 Penalties for offenses.

A. Any owner, lessee, tenant, occupant, architect or builder, or agent of any of them or any other person who violates or is accessory to the violation of any provisions of this chapter or who fails to comply with any of the requirements thereof or who erects, constructs, alters, enlarges, converts, moves or maintains any building or any land in violation of any detailed statement or plans submitted and approved under the provisions of this chapter shall be guilty of an offense, punishable for each offense by a fine not exceeding three hundred fifty dollars ($350) or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars ($350) nor more than seven hundred dollars ($700) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine of not less than seven hundred dollars ($700) nor more than one thousand ($1,000) or imprisonment for a period not to exceed six (6) months, or both. Each weeks' continued violation shall constitute a separate additional violation.

B. Any building erected, constructed, altered, converted, enlarged, moved or used contrary to any of the provisions of this chapter and any use of any land or any building which is conducted,

operated or maintained contrary to any of the provisions of this chapter shall be and the same is hereby declared to be unlawful. The Building Inspector may institute an action to prevent, enjoin, abate or remove such erection, construction, alteration, enlargement, conversion or use in violation of any of the provisions of this chapter. The Building Inspector shall serve notice by certified mail, addressed to the premises of such violation, on the person or corporation committing or permitting the same. If such violation does not cease within such time as the Building Inspector may specify, he shall institute such of the foregoing action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.

C. The remedies provided for herein are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

§ 156-97 Supplemental notice requirements.

A. Every applicant that submits an application in accordance with Articles V., Special Use Permit Standards, Article VIII., Zoning Board of Appeals, Article IX., Planning Board, Article X., Site Plan Review; Lot Line Adjustment, and Article XI.. Wireless Telecommunications, must post one (1) or more notification signs on the property which is the subject of said application within three (3) days of acceptance of the application by the approval authority and must maintain the posted sign(s) placed until the approval authority has rendered its final decision approving or denying said application. The sign(s) shall be erected not more than ten (10) feet from each boundary of the property that abuts a public road and must be conspicuous to the public. The bottom edge of each sign so erected shall be positioned no less than two and one-half (2.5) feet and no more than three (3) feet above the ground. In the event that the subject property abuts more than one road, additional signs will be posted facing each road on which the property abuts. If the sign's visibility is obscured by vegetation, the applicant must cut the vegetation to a degree sufficient to maintain clear visibility of the sign from the road. If the property does not abut a public road, one (1) or more signs shall be posted in locations that can readily be seen by the public. Any sign erected under this provision must be removed within ten (10) days after the approval authority has rendered its final decision approving or denying said application.

B. In the event that an application shall be withdrawn or become inactive, the applicant shall remove the sign(s) within five (5) business days of withdrawing the application or of receiving notice from the approval authority that the application has been designated inactive. For the purposes of this section, any application which has not appeared on the approval authority's agenda for six (6) or more months shall be designated inactive. The approval authority shall notify the applicant in writing that the application has become inactive and instruct the applicant to remove the sign(s) until such time as the application shall be reactivated. Once the application is reactivated, the sign(s) shall be posted within three (3) business days.

C. The Town of Carmel will supply the sign(s) and the initial cost will be included in the application fee. The applicant will be responsible for maintaining said sign(s) in good condition so as to be visible to and readable by the public. The applicant shall be responsible for replacing any sign(s) that are damaged, destroyed, lost or stolen during the pendency of the application. A replacement fee will be charged for each sign that needs to be replaced. The amount of said replacement fee shall be determined from time to time by the Town Building Inspector.

D. Prior to the commencement of any public hearings or, if no public hearings are required, prior to the rendering of any decision disposing of any application, the applicant shall submit a sworn certification on a form provided by the Town, together with legible photographic evidence, to verify the placement and maintenance of the required notice signs. If the certification is not timely submitted, any scheduled public hearings shall be canceled, subject to rescheduling, and any dispositive action by the approval authority shall be deferred until timely certification is submitted. In the event of repeated or continued noncompliance with these sign posting and certification requirements, the application may be dismissed at the discretion of the approval authority.

§ 156-98 and 99. Reserved.

Article XIII Amendments.

§ 156-100. Amendment procedures.

A. This Zoning chapter or any part thereof may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion or upon petition or upon recommendation by the Planning Board. Prior to a public hearing, every such proposed amendment shall be referred by the Town Board to the Planning Board for a report. The Town Board shall not take action on any such amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within forty-five (45) days following the date of such referral.

B. Report of the Planning Board. In making such report on a proposed amendment, the Planning Board shall consider and make determinations concerning the items specified below:

(1) Concerning a proposed amendment to or change in text of the Zoning chapter:

(a) Whether such change is consistent with the purposes set forth in the Zoning chapter as to the particular districts concerned.

(b) Which areas, land uses, buildings and establishments in the Town will be directly affected by such change and in what way they will be affected.

(c) The indirect implications of such change in its effect on other regulations.

(d) Whether such proposed amendment is consistent with the Comprehensive Plan of the Town.

(2) Concerning a proposed amendment involving a change in the Zoning Map:

(a) Whether the uses permitted by the proposed change would be appropriate in the area concerned.

(b) Whether adequate school and other public facilities and services, including roads, exist or can be created to serve the needs of any additional residences or other uses likely to be constructed as a result of such change.

(c) Whether the proposed change is in accord with any existing or proposed pending plans in the vicinity.

(d) The effect of the proposed amendment upon the growth of the Town as envisaged by the Comprehensive Plan.

(e) Whether the proposed amendment is likely to result in an increase or decrease in the total residential capacity of the Town and the probable effect thereof.

C. On petition, duly signed and acknowledged, of the owners of fifty (50) percent or more of the area requesting amendment, change or modification of the regulations, including to the Zoning Map, the Town Board shall hold a public hearing on such proposal in the manner set forth in this Article. Each petition for a zoning amendment shall be accompanied by a fee in accordance with the Standard Schedule of Fees of the Town of Carmel as may be adopted from time to time by the Town Board.

D. By resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with provisions of § 264 of Article 16 of the Town Law. All notices of public hearings shall specify the nature of any proposed amendment, the land or district affected and the date when and the place where the public hearing will be held. At least ten (10) days notice of the time and place of such hearing shall be published in the official newspaper.

E. At least ten (10) days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including any amendments thereto, affecting property within five hundred (500) feet of the following shall be served personally or by mail by the Town upon each person or persons listed below:

(1) The property of the housing authority erecting or owning a housing project authorized under the public housing law; upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto.

(2) The boundary of a city, village or town; upon the clerk thereof.

(3) The boundary of a county; upon the clerk of the board of supervisors or other person performing like duties.

(4) The boundary of a state park or parkway; upon the regional state park commission having jurisdiction over such state park or parkway.

F. If any proposed amendment consists of or includes any of the following conditions, the Town Clerk shall, prior to final action, refer the proposed amendment to the Putnam County Planning Department:

(1) Any change in the district classification of or the regulations applying to real property abutting:

(a) The boundary of any village or town.

(b) The boundary of any state or county park or other recreation area.

(c) The right-of-way of any state parkway, thruway, expressway or other controlled-access highway or county road or parkway.

(d) The right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.

(e) The boundary of any county- or state-owned land on which a public building or institution is located.

G. In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 265 of Article 16 of the New York State Town Law.

H. Every Zoning chapter and every amendment to the same (excluding any map incorporated therein) adopted pursuant to the provisions herein shall be entered in the minutes of the Town Board; such minutes shall describe and refer to any map adopted in connection with such zoning ordinance or amendment and a copy, summary or abstract thereof (exclusive of any map incorporated therein) shall be published once in the official newspaper of the Town, and affidavits of the publication thereof shall be filed with the Town Clerk. Such amendments to the law and Zoning Map shall take effect upon proper filing with the New York State Department of State.

Article XIV Stormwater Control

§ 156-101 Definitions.

The terms used in this article or in documents prepared or reviewed under this article shall have the meanings as set forth in this section.

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING

Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than one hundred (100) square feet of area.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING

Any activity that removes the vegetative surface cover.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation.

DEVELOPER

A person who undertakes land development activities.

EROSION CONTROL MANUAL

The most recent version of the "New York Standards and Specifications for Erosion and Sediment

Control" manual, commonly known as the "Blue Book."

EXEMPT ACTIVITIES

The following activities are considered exempt from review: agricultural activity as defined herein; silvicultural activity, except landing areas and log haul roads; routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility; repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer; any part of a subdivision if a plat for the subdivision has been approved (subdivision plat has been signed) by the Planning Board of the Town of Carmel on or before December 17, 2008; land development activities for which a building permit has been approved on or before December 17, 2008; cemetery graves; installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; emergency activity immediately necessary to protect life, property or natural resources; activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and related family; landscaping and horticultural activities in connection with an existing structure.

GRADING

Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY

Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill,

that results in land disturbance of equal to or greater than 5,000 square feet, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction and which provides for long term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

Land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Cold-water fisheries; fish beds; swimming beaches; groundwater recharge areas; water supply reservoirs; habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

A general permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of land. GP-0-20-001 or most recent version.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS

A general permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards. GP-0-15-003 or most recent version.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER ("SMO")

The Town of Carmel Town Engineer or an employee or officer designated by the Town Board of the Town of Carmel to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT MANUAL

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 156-102 Stormwater pollution prevention plans.

A. Stormwater pollution prevention plan requirement. No application for approval of a land

development activity, except exempt activities, shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article.

B. Contents of stormwater pollution prevention plans. All SWPPPs shall provide the following background information and erosion and sediment controls:

(1) Background information about the scope of the project, including location, type and size of project;

(2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on site and adjacent off site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s); site map should be at a scale no smaller than one (1) inch equals one hundred (100) feet;

(3) Description of the soil(s) present at the site;

(4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

(5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

(6) Description of construction and waste materials expected to be stored on site, with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater and spill prevention and response;

(7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

(8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(10) Temporary practices that will be converted to permanent control measures;

(11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

(12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(13) Name(s) of the receiving water(s);

(14) Delineation of SWPPP implementation responsibilities for each part of the site;

(15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

(16) Any existing data that describes the stormwater runoff at the site.

C. Land development activities, as defined in § **156-101** of this article, meeting Condition One, Two or Three below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Subsection D below as applicable:

(1) Condition One: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(2) Condition Two: stormwater runoff from land development activities disturbing five (5) or more acres.

(3) Condition Three: stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

D. SWPPP requirements for Condition One, Two and Three of Subsection C are as follows:

(1) All information in § **156-102B** of this chapter;

(2) Description of each postconstruction stormwater management practice;

(3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;

(4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

(5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;

(6) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;

(7) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;

(8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

(9) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § **156-106** hereinafter;

(10) For Condition One, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article.

E. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

F. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to

cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature; address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

G. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 156-103 Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. The following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").

(2) New York State Standards and Specifications for Erosion and Sediment Control, also referred to as the “2016 Blue Book”.

B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in § **156-103A**, and the SWPPP shall be prepared by a licensed professional.

C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 156-104 Administration, inspection, maintenance and repair of stormwater facilities.

A. During construction the applicant or developer of the land development activity or their

representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

B. For land development activities as defined in § **156-101** of this article, meeting Condition One, Two or Three in § **156-102C**, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices as required by the NYSDEC regulations. Inspection reports shall be maintained as per NYSDEC regulations.

C. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

D. The Town of Carmel SMO may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Carmel enforcement official at least forty-eight (48) hours before any of the following as required by the SMO:

   (1) Start of construction.

   (2) Installation of sediment and erosion control measures.

   (3) Completion of site clearing.

   (4) Completion of rough grading.

   (5) Completion of final grading.

   (6) Close of the construction season.

   (7) Completion of final landscaping.

   (8) Successful establishment of landscaping in public areas.

E. If any violations are found, the applicant and developer shall be notified, in writing, of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received

approval by the Stormwater Management Officer.

F. The Town of Carmel SMO is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

G. After project completion, inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. The Town of Carmel SMO may perform the inspections or may designate an inspector required to have a professional engineer (PE) license or certified professional in erosion and sediment control (CPESC) certificate to perform the inspection as long as the designated inspector is required to submit a written report.

H. The Town of Carmel SMO may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

I. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Carmel the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as required herein.

§ 156-105 Postconstruction operation and maintenance.

After construction, the owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance include the following at a minimum:

A. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve

the goals of this article.

B. Written procedures for operation and maintenance and training new maintenance personnel.

C. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § **156-103C**.

§ 156-106 Maintenance agreements.

The Town of Carmel shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Putnam County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be in a form as contained hereinafter. The Town of Carmel, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 156-107 Maintenance easement(s).

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Carmel to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the Putnam County Clerk after approval by the counsel for the Town of Carmel.

§ 156-108 Performance guarantees.

A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Carmel in its approval of the stormwater pollution prevention plan, the Town of Carmel may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Carmel as the beneficiary. The security shall be in an amount to be determined by the Town of Carmel based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Carmel, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved

plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Carmel. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Carmel with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Carmel may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Recordkeeping. The Town of Carmel may require entities subject to this article to maintain records demonstrating compliance with this article.

§ 156-109 Enforcement; penalties for offenses.

A. Notice of violation. When the Town of Carmel determines that a land development activity is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant;

(2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this article and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

(6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

B. Stop-work orders. The Town of Carmel may issue a stop-work order for violations of this article. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Carmel confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

C. Violations. Any land development activity that is commenced or is conducted contrary to this article may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars ($350) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars ($350) nor more than seven hundred dollars ($700) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars ($700) nor more than one thousand dollars ($1,000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this article, the Stormwater Management Officer may prevent the occupancy of said building or land.

F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Carmel may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 156-110 Fees for services.

The Town of Carmel may require any person undertaking land development activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections or SMP maintenance performed by the Town of Carmel or performed by a third party for the Town of Carmel.

Article XV Stormwater Control — Illicit Discharge and Elimination

§ 156-111 Purpose; intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Carmel through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES general permit for municipal separate storm sewer systems. The objectives of this article are:

A. To meet the requirements of the SPDES general permit for stormwater discharges from MS4s, Permit No. GP-0-15-003, or as amended or revised;

B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;

C. To prohibit illicit connections, activities and discharges to the MS4;

D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and

E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 156-112 Definitions.

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have meanings set forth below:

303(d) LIST

A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d)-listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

BEST MANAGEMENT PRACTICES (BMPs)

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution

prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY

Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-0-20-001 (PDF), as may be amended. These activities include construction projects resulting in land disturbance of five thousand (5,000) square feet or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL

New York State licensed professional engineer or licensed architect.

HAZARDOUS MATERIALS

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTIONS

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any nonstormwater discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE

Any direct or indirect nonstormwater discharge to the MS4, except as otherwise exempted within the provisions of this article.

INDIVIDUAL SEWAGE TREATMENT SYSTEM

A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwater of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY

Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-0-17-004, as amended or revised.

MS4

Municipal separate storm sewer system.

MUNICIPAL SEPARATE STORM SEWER SYSTEM

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

A. Owned or operated by the Town of Carmel;

B. Designed or used for collecting or conveying stormwater;

C. Which is not a combined sewer; and

D. Which is not part of a publicly owned treatment works (POT) as defined at 40 CFR.

MUNICIPALITY

The Town of Carmel.

NONSTORMWATER DISCHARGE

Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON

Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT

Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

PREMISES

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

SPECIAL CONDITIONS

A. **DISCHARGE COMPLIANCE WITH WATER QUALITY STANDARDS**

The condition that applies where a municipality has been notified that the discharge of stormwater authorized under its MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. **LISTED WATERS**

The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d)-listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d)-listed water.

C. **TOTAL MAXIMUM DAILY LOAD (TMDL) STRATEGY**

(1) The condition in the municipality's MS4 permit where a TMDL, including requirements for control of stormwater discharges, has been approved by the EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

(2) The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by the EPA for any water body or watershed into which an MS4 discharges. Under this condition, the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)

Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

TOTAL MAXIMUM DAILY LOAD (TMDL)

The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER

Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§ 156-113 Applicability.

This article shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 156-114 Responsibility for administration.

The Stormwater Management Officer(s) [SMO(s)] shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

§ 156-115 Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

§ 156-116 Discharge prohibitions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in § **156-116B**. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article, unless the Department or the municipality has determined them to be substantial contributors of pollutants: waterline flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from firefighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved, in writing, by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

(4) Any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past,

regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the municipality's MS4 or allows such a connection to continue.

§ 156-117 Prohibition against failing individual sewage treatment systems.

A. No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

(1) The backup of sewage into a structure.

(2) Discharges of treated or untreated sewage onto the ground surface.

(3) A connection or connections to a separate stormwater sewer system.

(4) Liquid level in the septic tank above the outlet invert.

(5) Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.

(6) Contamination of off-site groundwater.

§ 156-118 Prohibition against activities contaminating stormwater.

A. Activities that are subject to the requirements of this section are those types of activities that:

(1) Cause or contribute to a violation of the municipality's MS4 SPDES permit.

(2) Cause or contribute to the municipality being subject to the special conditions as defined in § **156-112**, Definitions, of this article.

(3) Such activities include failing individual sewage treatment systems as defined in § **156-117**, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

B. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to

violations of the municipality's MS4 SPDES permit authorization.

§ 156-119 Prevention control, and reduction of stormwater pollutants by use of best management practices.

A. Best management practices. Where the SMO has identified illicit discharges as defined in § **156-112** or activities contaminating stormwater as defined in § **156-118**, the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

(1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.

(2) Any person responsible for a property or premises which is, or may be, the source of an illicit discharge as defined in § **156-112** or an activity contaminating stormwater as defined in § **156-118**, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

B. Individual sewage treatment systems - response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants. Where individual sewage treatment systems are contributing to the municipality's being subject to the special conditions as defined in § **156-101** of this article, the owner or operator of such individual sewage treatment systems shall be required to:

(1) Maintain and operate individual sewage treatment systems as follows:

(a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three (3) inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten (10) inches of the bottom of the outlet baffle or sanitary tee.

(b) Avoid the use of septic tank additives.

(c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and

(d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

(2) Repair or replace individual sewage treatment systems as follows:

(a) In accordance with 10 NYCRR Appendix 75-A, to the maximum extent practicable.

(b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:

[1] Relocating or extending an absorption area to a location not previously approved for such.

[2] Installation of a new subsurface treatment system at the same location.

[3] Use of an alternate system or innovative system design or technology.

(c) A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

§ 156-120 Suspension of access to MS4; illicit discharges in emergency situations.

A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter, in writing, of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator, in writing, of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines, in writing, that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the SMO.

§ 156-121 Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

§ 156-122 Access and monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

(2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.

(3) The municipality shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The municipality has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the municipality access to a facility subject to this article is a violation of this article. A person who is the operator of a facility subject to this article commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.

(6) If the SMO has been refused access to any part of the premises from which stormwater is

discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 156-123 Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

§ 156-124 Enforcement; penalties for offenses.

A. Notice of violation. When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, he/she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

   (1) The elimination of illicit connections or discharges;

   (2) That violating discharges, practices, or operations shall cease and desist;

   (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

   (4) The performance of monitoring, analyses, and reporting;

   (5) Payment of a fine; and

   (6) The implementation of source control or treatment BMPs. If abatement of a violation and/or

restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars ($350) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars ($350) nor more than seven hundred dollars ($700) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars ($700) nor more than one thousand dollars ($1,000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 156-125 Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board within fifteen (15) days of its issuance, which shall hear the appeal within thirty (30) days after the filing of the appeal and, within five (50 days of making its decision, file its decision in the office of the Municipal Clerk and mail a copy of its decision by certified mail to the discharger.

§ 156-126 Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five (5) business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole

responsibility of the discharger.

§ 156-127 Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 156-128 Alternative remedies.

Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Building Inspector, where:

A. The violation was unintentional.

B. The violator has no history of pervious violations of this article.

C. Environmental damage was minimal.

D. Violator acted quickly to remedy violation.

E. Violator cooperated in investigation and resolution.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
				Minimum Required Lot Dimensions			Minimum Required Yard Dimensions (feet)						Maximum Permitted Height of Buildings		Maximum Permitted Lot Coverage (percent)
							Applying to Principal Building/Use			Applying to Accessory Buildings/Use					
District	Principal Permitted Uses (References in parentheses are specific standards applicable to use.)	Principal Uses Allowed by Special Use Permit (References in parentheses are specific standards applicable to use.)	Accessory Uses (References in parentheses are specific standards applicable to use.)	Lot Area (square feet)	Lot Width (feet)	Lot Depth (feet)	Front	Side	Rear	Front	Side	Rear	Stories	Feet	
CN Conservation	1.Public parks and other recreation and conservation areas.	1. Single-family dwellings. 2. Recreation center (§ 156-36.24) 3. Golf course (§ 156-36.5). 4. Public utility installations (§ 156-36.23).	1.Private garages accessory to residential uses. 2. Shoreline activities; piers and docks (§ 156-26). 3. Storage sheds. 4. Small residential storage shed (§ 156-19). 5. Private swimming pools, tennis courts, pool house (§ 156-23). 6. Fences and walls (§ 156-19). 7. Signs (§ 156-42). 8. Off-street parking and loading (§ 156-43) 9. Noncommercial garden or greenhouse. 10. Customary home occupations (§ 156-36.16). 11. Solar energy systems (156-25). 12. Electronic vehicle charging station (§ 156-25). 13. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	75	50	50	75	35	25	2.5	35	15%
OSR Open Space Residential	1. Agricultural operations. 2. Parks, playgrounds and other recreation facilities operated by the Town of Carmel. 3. Single-family dwellings. 4. Municipal offices, fire and police stations, schools and other similar uses. 5. Horse boarding operation. 6. Horse riding academy 7. Place of worship.	1. Parks, playgrounds and other public or private recreation facilities not operated by the Town of Carmel. 2. Annual membership clubs, excluding rod and gun club (§ 156-36.5) 3. Rod and gun club; hunting club (§ 156-36.26). 4. Day camps (§ 156-36.9). 5. Educational institutions (§ 156-36.14). 6. Craft beverage establishment, provided frontage and access is from a state or county road. (See § 156-36.7) 7. Sit-down restaurant, provided frontage and access is from a state or county road, or principal or minor arterial as per the NYSDOT functional classification maps. 8. Corridor commercial (§ 156-36.6) 9. Custom workshop or studio, provided frontage and access is from a state or county road. 10. Day-care center and day nursery, provided frontage and access is from a state or county road (§ 156-36.10) 11. Day spa, provided frontage and access is from a state or county road. 12. Golf course (§ 156-36.5). 13. Boutique hotel, provided frontage and access is from a state or county road. (§ 156-36.17) 14. Public utility installations (§ 156-36.23)	1.Private garages accessory to residential uses. 2. Shoreline activities; piers and docks (§ 156-26). 3. Storage sheds. 4. Small residential storage shed (§ 156-19). 5. Private swimming pools, tennis courts, pool house (§ 156-23). 6. Fences and walls (§ 156-19). 7. Signs (§ 156-42) 8. Off-street parking and loading (§ 156-) 8. Noncommercial garden or greenhouse 9. Tents (§ 156-24). 10. Commercial vehicle parking accessory to a single-family residence only (§ 156-43.L). 11. Private stables (§ 156-22). 12. Customary home occupations (156-36.16). 13. Accessory dwelling unit (§ 156-15). 14. Short-term rental (§ 156-36.4). 15. Solar energy systems (156-25). 15. Farm stand (§ 156-20) 16 . Electronic vehicle charging station (§ 156-25) 17. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	75	50	50	75	35	25	2.5	35	15%

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
				Minimum Required Lot Dimensions			Minimum Required Yard Dimensions (feet)						Maximum Permitted Height of Buildings		Maximum Permitted Lot Coverage (percent)
							Applying to Principal Building/Use			Applying to Accessory Buildings/Use					
District	Principal Permitted Uses (References in parentheses are specific standards applicable to use.)	Principal Uses Allowed by Special Use Permit (References in parentheses are specific standards applicable to use.)	Accessory Uses (References in parentheses are specific standards applicable to use.)	Lot Area (square feet)	Lot Width (feet)	Lot Depth (feet)	Front	Side	Rear	Front	Side	Rear	Stories	Feet	
NR Neighborhood Residential	1.Single-family dwellings. 2.Parks, playgrounds and other recreation facilities operated by the Town of Carmel. 3.Municipal offices, fire and police stations, schools and other similar uses. 4. Place of worship.	1.Parks, playgrounds and other public or private recreation facilities not operated by the Town of Carmel. 2. Corridor commercial use (§ 156-36.6) 3. Day-care center and day nurseries (§ 156-36.10) 4. Public utility installations (§ 156-36.23). 5. Sit-down restaurant, provided frontage and access is from a state or county road, or principal or minor arterial as per the NYSDOT functional classification maps.	1.Private garages accessory to residential uses. 2. Shoreline activities; piers and docks (§ 156-26). 3. Storage sheds. 3. Small residential storage shed (§ 156-19). 4. Private swimming pools, tennis courts, pool house (§ 156-23). 5. Fences and walls (See § 156-19). 6. Signs (§ 156-42) 7. Off-street parking and loading (§ 156-43) 8. Noncommercial garden or greenhouse 9. Tents (§ 156-24). 10. Commercial vehicle parking accessory to a single-family residence only (§ 156-43.L) 11. Private stables (§ 156-22). 12. Customary home occupations (§ 156-36.16). 13. Accessory dwelling unit (§ 156-15). 14. Short-term rental (§ 156-36.4). 15. Solar energy systems (156-25). 16. Electronic vehicle charging station (§ 156-25) 17. Other accessory uses clearly customarily and incidental to the principal use.	40,000	100	150	40	25	40	40	20	20	2.5	35	25%
SMR Senior/ Multifamily Residential	1.Single-family dwellings. 2.Parks, playgrounds and other recreation facilities operated by the Town of Carmel. 3.Municipal offices, fire and police stations, public schools and other similar uses. 4. Nursery schools and day nurseries (See § 156-36.10) 5. Place of worship.	1.Parks, playgrounds and other public or private recreation facilities not operated by the Town of Carmel. 2. Recreation center (See § 156-36.24). 3. Senior citizen multifamily dwellings (§ 156-36.21). 4 Multifamily dwellings including townhouses (§ 156-36.21). 5. Public utility installations (See § 156-36.23).	1.Private garages accessory to residential uses. 2. Shoreline activities; piers and docks (§ 156-26). 3. Storage sheds. 4. Small residential storage shed (§ 156-19). 5. Private swimming pools, tennis courts, pool house (§ 156-23). 6. Fences and walls (§ 156-19). 7. Signs (§ 156-42). 8. Off-street parking and loading (§ 156-43). 9. Noncommercial garden or greenhouse 10. Tents (See § 156-24) 11. Commercial vehicle parking accessory to a single-family residence only (§ 156-43.L). 12. Customary home occupations (§ 156-36.16) 13. Accessory dwelling unit (§ 156-15) 14. Solar energy systems (156-25). 15. Electronic vehicle charging station (§ 156-25). 16. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	75	50	50	75	35	25	2.5	35	35%
HR Hospital Residential	1. Medical offices. 2. Distribution and light assembly of medical equipment and supplies. 3. Pharmaceutical and health sciences. 4. Restaurant. 5. Florist and gift shop. 6. Parks, playgrounds and other recreation facilities operated by the Town of Carmel 7. Municipal offices, fire and police stations, and other similar uses 8. Nursery schools and day nurseries (§ 156-36.10) 9. Place of worship.	1. Hospital, general. 2. Multifamily dwellings (§ 156-36.21). 3. Parks, playgrounds and other public or private recreation facilities not operated by the Town of Carmel 4. Hotel (§ 156-36.17) 5. Boutique hotel (§ 156-36.17) 6. Public utility installations (§ 156-36.23)	1.Private garages accessory to residential uses 2. Shoreline activities; piers and docks (§ 156-26). 3. Private swimming pools, tennis courts, pool house (§ 156-23). 4. Fences and walls (§ 156-19) 5. Signs (§ 156-42) 6. Off-street parking and loading (§ 156-43) 7. Garden or greenhouse accessory to florist and gift shop 8. Customary home occupations (§ 156-36.16) 9. Solar energy systems (§ 156-25). 10. Electronic vehicle charging station (§ 156-25). 11. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	75	50	50	75	35	25	2.5	35	35%

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
				Minimum Required Lot Dimensions			Minimum Required Yard Dimensions (feet)						Maximum Permitted Height of Buildings		Maximum Permitted Lot Coverage (percent)
							Applying to Principal Building/Use			Applying to Accessory Buildings/Use					
District	**Principal Permitted Uses (References in parentheses are specific standards applicable to use.)**	**Principal Uses Allowed by Special Use Permit (References in parentheses are specific standards applicable to use.)**	**Accessory Uses (References in parentheses are specific standards applicable to use.)**	**Lot Area (square feet)**	**Lot Width (feet)**	**Lot Depth (feet)**	**Front**	**Side**	**Rear**	**Front**	**Side**	**Rear**	**Stories**	**Feet**	
MHP Manufactured Home Park	None	1. Manufactured housing (§ 156-36.19) 2. Public utility installations (§ 156-36.23)	1. Off-street parking and loading (§ 156-43). 2. Customary home occupations (§ 156-36.16). 3. Solar energy systems (§ 156-25). 4. Signs (§ 156-42). 5. Electronic vehicle charging station (§ 156-25). 6. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	75	50	50	75	35	25	2.5	35	35%
HMC Hamlet Mixed Use Center	1. Retail uses. 2. Professional and medical offices. 3. Banks and other financial institutions. 4. Restaurants. 5. Bars and taverns. 6. Winery, brewery and distillery. 7. Municipal and other governmental uses. 8. Fraternal, social, civic or other semipublic club buildings. 9. Dayspa. 10. Museum. 11. Farm market; health food store and market. 12. Hardware store. 13. Fitness facility. 14. Nightclub. 15. Personal service use. 16. Funeral establishment. 17. Movie theater. 18. Place of worship. 19.. Antique shops. 20. Art galleries.	1. Multifamily dwellings on waterfront (§ 156-36.21) in existence on the effective date of this law. 2. Dwellings above ground floor nonresidential uses (156-36.20). 3. Dwellings in the HMC zone (§ 156-36.13) 5. Parks, playgrounds and other public or private recreation facilities not operated by the Town of Carmel. 6. Hotel (§ 156-36.17). 7. Boutique hotel (§ 156-36.17). 8. Marinas (§ 156-26). 9. Craft beverage establishment (§ 156-36.7). 10. Custom workshop or studio. 11. Public utility installations.(§ 156-36.23)	1. Off-street parking and loading (§ 156-43). 2. Shoreline activities; piers and docks (§ 156-). 3. Signs (§ 156-42). 4. Outdoor dining, provided such outdoor dining is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 5. Sidewalk cafes, provided such outdoor cafe is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 6. Drive through facility for financial institution only (§ 156-36.12). 7. Solar energy systems (156-25). 8. Short-term rentals (§ 156-36.4). 9. Piers and docks (156-26). 10. Electronic vehicle charging station (§ 156-25).	10,000	75	80	O, but if required by the Planning Board, 10 feet	10 (0, if attached to adjoining building)	25	10	10	10	3.5	40	65%
NB Neighborhood Business	1. Retail uses. 2. Medical and professional offices. 3. Banks and other financial institutions. 4. Restaurants, sit down and fast food. 5. Bars and taverns. 6. Municipal and other governmental uses. 7. Fraternal, social, civic or other semipublic club buildings. 8. Fitness facility. 9. Farm market; health food store and market. 10. Hardware store. 11. Dry cleaning establishment. 12. Personal service use. 13. Funeral establishment.	1. Designed shopping center (§ 156-36.11). 2. Craft beverage establishment (§ 156-36.7). 3. Custom workshop or studio.	1. Off-street parking and loading (§ 156-43). 2. Signs (§ 156-42). 3. Outdoor dining, provided such outdoor dining is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 4. Sidewalk cafes, provided such outdoor cafe is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 5. Solar energy systems (§ 156-25). 6. Electronic vehicle charging station (§ 156-25) 7. Other accessory uses clearly customarily and incidental to the principal use.	10,000	75	80	25	15	25	25	10	10	3.5	40	40%

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
				Minimum Required Lot Dimensions			Minimum Required Yard Dimensions (feet)						Maximum Permitted Height of Buildings		Maximum Permitted Lot Coverage (percent)
							Applying to Principal Building/Use			Applying to Accessory Buildings/Use					
District	Principal Permitted Uses (References in parentheses are specific standards applicable to use.)	Principal Uses Allowed by Special Use Permit (References in parentheses are specific standards applicable to use.)	Accessory Uses (References in parentheses are specific standards applicable to use.)	Lot Area (square feet)	Lot Width (feet)	Lot Depth (feet)	Front	Side	Rear	Front	Side	Rear	Stories	Feet	
CB Corridor Business	1. Retail uses. 2. Business, medical and professional offices. 3. Bars and taverns. 4. Banks and other financial institutions. 5. Restaurants, sit down and fast food. 6. Municipal and other government buildings 7. Fraternal, social, civic or other semipublic club buildings. 8. Fitness facility. 9. Farm market; health food store and market. 10. Hardware store. 11. Dry cleaning establishment. 12. Landscape materials, retail and wholesale. 13. Personal service use 14. Research laboratories 15. Self-storage warehouse 16. Trade or vocational school. 17. Funeral establishment.	1. Automotive repair facility (§ 156-36.3). 2. Automobile service station (§ 156-36.1). 3. Self-storage warehouse (§ 156-36.18). 4. Wholesale storage and distribution, including lumberyards (§ 156-36.18). 5. Auto sales and showroom establishments, but not including auto body repair shops exclusively as principal uses (§ 156-36.2). 6. Contractor establishment. 7. Veterinary hospital (§ 156-36.29). 8. Animal kennel (§ 156-36.29). 9. Designed shopping center (§ 156-36.11). 10. Craft beverage establishment (§ 156-36.7). 11. Hotel (§ 156-36.17). 12. Custom workshop or studio.	1. Parking and loading (§ 156-43). 2. Signs (§ 156-42). 3. Outdoor dining, provided such outdoor dining is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 4. Sidewalk cafes, provided such outdoor cafe is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 5. Solar energy systems (156-25). 6. Electronic vehicle charging station (§ 156-25). 7. Other accessory uses clearly customarily and incidental to the principal use.	40,000	150	100	40	25	40	40	20	20	2.5	35	45%
TC Town Commercial	1. Retail uses. 2. Professional, business and medical offices. 3. Banks and other financial institutions. 4. Restaurants, sit down and fast food. 5. Bars and taverns. 8. Municipal and other governmental uses. 9. Fraternal, social, civic or other semipublic club buildings. 10. Fitness facility. 11. Indoor commercial recreation. 12. Farm market; health food store. 13. Hardware store. 14. Grocery store. 15. Personal service use. 16. Research laboratories.	1. Automotive repair facility (§ 156-36.3). 2. Automotive service station (§ 156-36.1). 3. Fast food restaurant with drive-through (§ 156-36.12). 4. Designed shopping center (§ 156-36.11). 5. Craft beverage establishment (§ 156-36.7). 6. Hotel (§ 156-36.17). 7. Custom workshop or studio. 8. Designed shopping center (§ 156-36.11).	1. Parking and loading (§ 156-43). 2. Signs (§ 156-42). 3. Outdoor dining, provided such outdoor dining is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 4. Sidewalk cafes, provided such outdoor cafe is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 5. Solar energy systems (156-25). 6. Electronic vehicle charging station (156-25). 7. Other accessory uses clearly customarily and incidental to the principal use.	40,000	150	100	40	25	40	40	20	20	2.5	35	50%
PRD Planned Recreation Destination	1. Agricultural operations. 2. Bars and taverns. 3. Restaurant, sit down and fast food. 4. Farm market. 5. Fitness facility. 6. Museum. 7. Riding academy. 8. Horse boarding operation. 9. Day camp. 10. Movie theater.	1. Recreation center (§ 156-36.24). 2. Craft beverage establishment (§ 156-36.7). 3. Hotel (§ 156-36.17). 4. Boutique hotel (§ 156-36.17). 5. Cultural and performing arts center (§ 156-36.8). 6. Planned Mixed Use Development, approved by the Town Board (§ 156-36.22). 7. Custom workshop or studio. 8. Resort (§ 156-36.25).	1. Parking and loading (§ 156-43). 2. Signs (§ 156-42). 3. Outdoor dining, provided such outdoor dining is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 4. Sidewalk cafes, provided such outdoor cafe is accessory to a fully enclosed eating or drinking establishment (§ 156-21). 5. Solar energy systems (§ 156-25). 6. Electronic vehicle charging station (§ 156-25). 7. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	75	50	50	75	35	25	2.5	35	40%

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
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							Applying to Principal Building/Use			Applying to Accessory Buildings/Use					
District	Principal Permitted Uses (References in parentheses are specific standards applicable to use.)	Principal Uses Allowed by Special Use Permit (References in parentheses are specific standards applicable to use.)	Accessory Uses (References in parentheses are specific standards applicable to use.)	Lot Area (square feet)	Lot Width (feet)	Lot Depth (feet)	Front	Side	Rear	Front	Side	Rear	Stories	Feet	
BP Business Park	1. Light industry, converting, processing, altering, light assembly, finishing, printing or other handling of materials or products 2. Wholesale or warehouse use. 3. Research laboratories. 4. Data processing and computer centers. 5. Business and professional offices. 6. Restaurant. 7. Self-storage warehouses. 8. Entertainment production studio. 9. Fitness facility. 10. Trade or vocational school. 11. Landscape materials, retail and wholesale.	1. Metal working and machine shops. 2. Laundry and dry-cleaning plants. 3. Fuel storage. 4. Public utility installations (§ 156-36.23) 5 Veterinary hospital (§ 156-36.29). 6 Animal kennel (§ 156-36.29). 7. Craft beverage establishment (§ 156-36.7). 8. Hotel (§ 156-36.17). 9. Indoor pistol range.	1. Parking and loading (§ 156-43). 2. Signs (§ 156-42). 3. Solar energy systems (§ 156-25). 4. Electronic vehicle charging station (§ 156-25). 5. Other accessory uses clearly customarily and incidental to the principal use.	120,000	200	200	50	40	40	50	25	25	4	50	55%
ED Economic Development (Floating Zone)	Refer to Section 156-30 of Zoning Chapter.			Refer to Zoning Chapter											

Town of Carmel

Draft
Zoning

Tax Parcels

New Zoning

Zoning Districts

- C- Conservation & Recreation
- OSR - Open Space Residential (3 Acre Minimum Lot)
- NR - Neighborhood Residential (1 Acre Minimum lot)
- SMR - Senior/Multifamily Residential
- HR - Hospital/Residential
- MHP- Manufactured Home Park
- HMC - Hamlet Mixed Use Center
- NB - Neighborhood Business
- CB - Corridor Business
- TC - Town Commercial
- PRD - Planned Recreation Destination
- BP - Business Park
- D-O - Design Overlay
- PMUD-O
- MOA - NYC Memorandum of Agreement
- NW - NYC Watershed
- W - Waterbody

NOTE: MOA, NW, and W are designations, not zoning districts

N

1 inch equals 0 miles

Source: ESRI Web Mapping Service;
Putnam County GIS;
Putnam County Tax Assessor;
NYS GIS Clearinghouse

156 Attachment 2

Town of Carmel

Sample Stormwater Facility Maintenance Agreement
[Amended 4-8-2015 by L.L. No. 1-2015]

Whereas, the Town of Carmel, County of Putnam, State of New York ("Municipality") and _____ ("facility owner") want to enter into an agreement to provide for the long-term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components.

Therefore, the Municipality and the facility owner agree as follows:

1. This agreement inures to the benefit of the Municipality and binds the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.

3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five-year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a professional engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality, within 30 days of the inspection, a written report of the findings, including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.

6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.

7. The facility owner shall provide to the Municipality, within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a bond, letter of credit or escrow account.

8. This agreement shall be recorded in the Office of the County Clerk, County of Putnam, together with the deed for the subject premises.

9. In the event that the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

10. Nothing within this agreement shall be construed to impose any affirmative obligation or covenant of performance on the Municipality.

11. This agreement is effective _____.

Facility Owner: _____.

Owner's Representative: _____.

Representative Signature: _____.