

Town of Germantown, New York
Zoning and Subdivision Law

2011

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ARTICLE I: TITLE AND PURPOSE

A. Title

This Law shall be known and may be cited as the “Zoning and Subdivision Law for the Town of Germantown.”

B. Authority

The Town Council of the Town of Germantown is authorized to enact this Law by the authority and power granted by Town Law, Article 16, Section 261 and Municipal Home Rule Law Article 2, Section 10 of the State of New York.

C. Applicability

This Law applies to all buildings, structures, lands and uses over which the Town of Germantown has jurisdiction. This Law is not intended to replace any other Laws, Ordinances and Regulations of the Town of Germantown. All applicants are hereby advised that compliance with all other regulations is required.

D. Purpose

This Law is consistent with the Town of Germantown’s Comprehensive Plan and its goals of maintaining the rural character of Germantown; preserving Germantown’s natural resources; encouraging controlled business and residential development; and promoting efficient and responsive local government. It protects the diverse character of the Town while also giving landowners a range of options and choices for the use, development and conservation of their land. It is designed to achieve the community’s vision and goals as expressed in the Town’s Comprehensive Plan, protecting the property interests of landowners and providing a development approval process that is predictable, efficient and fair.

ARTICLE II: PERMITS AND APPROVALS PROCESS

A. Permits and Approvals

1. No development may be commenced within the Town of Germantown prior to the issuance of all relevant permits or approvals. The types of permits and approvals include the following:

BUILDING PERMITS and CERTIFICATES OF OCCUPANCY: The issuing, posting and expiration of Building Permits and the issuance of Certificates of Occupancy will be done according to Article XV.

PLANNED DEVELOPMENT DISTRICTS: All Planned Development District applications shall be subject to the provisions of Article IX.

SITE PLAN APPROVALS: Site Plan review and approval shall be required for all proposed uses except single- and two-family dwellings and their accessory uses and certain agricultural uses. The Site Plan Review and approval process is provided in Article XIII.

SPECIAL USE PERMITS: All special use permit applications shall be subject to the Special Use Permit provisions of Article XII and may be subject to the Site Plan Review provisions of Article XIII.

SUBDIVISION, MAJOR OR MINOR: All subdivision of land shall be subject to the provisions of Article X.

VARIANCES: All area and use variances shall be subject to the provisions of Article XIV.

ZONING PERMIT: A Zoning Permit shall be required for the construction or alteration of a sign, the establishment of a major home occupation as defined in this Law, the conversion or change in use of any existing building, structure, or parcel of land, except a change to an agricultural use, to verify that such use is in accordance with this Law. The Zoning Permit process is provided in Article XV.

B. Fees and Expenses

1. Fees required by this Law shall be paid upon the submission of applications and appeals.
2. Fees related to this Law shall be set forth in a fee schedule established by the Town Council. The Town Council shall, each year, at its organizational meeting, readopt its fee schedule for the new Town fiscal year. The Town Council shall also have the

power to amend the fee schedule, from time to time, in its discretion when circumstances warrant such changes to the fee schedule. The fee schedule shall be available for public inspection in the office of the Code Enforcement Officer.

3. No required fee shall be substituted for any other fee.
4. The following actions may require fees or reimbursement of expenses:
 - a. Building Permit
 - b. Site Plan Review
 - c. Special Use Permit
 - d. Zoning Permit
 - e. Subdivision Application
 - f. Zoning Variance Application
 - g. Zoning Interpretation
 - h. Expense of Neighbor Notification
 - i. Expense of Notice Publication
 - j. Expense of Outside Professional Services

C. Professional Assistance

The Planning Board or Zoning Board of Appeals may, at their discretion, engage the services of planning, engineering, legal, environmental or other professional consultants, at the expense of the applicant for the review of applications involving significant issues beyond the scope or complexity of normal review. The Planning Board and Zoning Board of Appeals may require costs to be paid in advance into an escrow account to be held and managed by the Town and may deny an application upon failure of the applicant to make such payment in a timely manner. The Town Attorney shall establish the terms of the account in consultation with the Planning Board and/or the Zoning Board of Appeals and shall provide a monthly accounting of the escrow account to the applicant and provisions for further funding of the escrow account when the balance is drawn down to a specified amount.

D. Performance Bond

To ensure the completion of required improvements such as, but not limited to, roads, landscaping, or other improvements required by the Planning Board as part of Article XIII, Site

Plan Review, or Article X, Subdivision of Land; the Planning Board, may require, as a condition of approval, a performance bond or other security in such form and from a source acceptable to the Town Council in an amount sufficient to cover the estimated cost of completion of the improvements. Such bond or other acceptable form of security shall comply with the requirements of Section 277 of New York State Town Law. A period of one (1) year (or such other period as the Planning Board may determine appropriate, not to exceed 3 years) shall be set forth in the bond within which required improvements must be completed.

E. SEQRA

The Town 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 as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations. Upon receipt of any complete application, the Town or any officer, department or board of the Town shall initiate the New York State Environmental Quality Review process by issuing a determination of significance.

ARTICLE III: ESTABLISHMENT OF DISTRICTS

A. Establishment of Use Districts

The Town of Germantown is hereby divided into the following zoning districts:

NATURAL RESOURCE (NR): The Natural Resource designation is intended to include a combination of lands with the following natural resources: forest cover, wetlands, streams, hydric soils and soils that are vulnerable to contamination, floodplain and steep slopes, as well as lands within the Town's Agricultural District. These lands include many of the Town's most sensitive natural resources.

AGRICULTURE AND RESOURCE (AR): The Agriculture and Resource designation is intended to apply to contiguous areas of larger-lot lands characterized by combinations of lands in the Town's Agricultural District and the following environmental resources: forest cover, wetlands, streams, hydric soils, soils vulnerable to contamination, floodplain, Hudson River waterfront, steep slopes, designated and proposed scenic byways and rare-animal habitat.

RURAL RESIDENTIAL (RR): The Residential designation is intended to apply to land areas in the central part of the Town surrounding the hamlet center and Route 9G. These lands show a pattern of scattered residential development and tend to be more parcelized and have fewer significant natural and agricultural resources than other parts of the Town.

HAMLET RESIDENTIAL (HR): The Hamlet Residential designation applies to existing and planned future residential land in the Town center, west of Route 9G to the Hudson River and the existing neighborhood of Cheviot. This designation is intended to permit a variety of residential uses at traditional village densities and a small number of commercial uses enhanced by their proximity to the Hudson River waterfront and Main Street. Areas adjacent to the Town center are intended to receive public sewer service. While currently reliant on on-site wells, if a public water system were developed, this area should receive public water.

HAMLET MIXED-USE (HMU): The Hamlet Mixed-Use designation applies to existing and planned future small-scale, locally oriented commercial uses mixed with compatible residential uses. The designation seeks to allow adaptive reuse and conversion of older homes while employing design standards to promote attractive new development. This area is intended for public sewer service. While currently reliant on on-site wells, if a public water system were developed, this area should receive public water.

HAMLET COMMERCIAL (HC): The Hamlet Commercial designation is intended to permit a variety of primarily commercial uses that are more oriented to automobile traffic and are commonly found along highways. This designation applies to an area of land in existing or prior commercial use along 9G with additional land for expansion.

BUSINESS DEVELOPMENT (BD): The Business Development designation is intended to permit nonpolluting light-industrial, high-tech and office-park uses that generate considerable employment base in the community. The areas of land have been designated for this use where

general commercial and light industrial uses already exist. It's proximity to Route 9G makes it appropriate for continued commercial and light industrial use.

B. Establishment of Overlay Districts

The purpose of the overlay district in this Zoning and Subdivision Law is to protect scenic viewsheds. The overlay district does not change the use and dimensional requirements of the underlying land use districts unless specifically so stated. It does impose specific requirements that must be followed.

SCENIC VIEWSHED OVERLAY DISTRICT (SVO): The purpose of this overlay district is to protect viewsheds of the Hudson River and Catskill Mountains for the enjoyment of the community as a whole through site plan standards and the preservation of the natural landscape.

C. Zoning Map

The areas and boundaries of such districts are hereby established to scale as shown on the map entitled "Town of Germantown Zoning Map," adopted and certified by the Town Clerk and herein referred to as the "Zoning Map." This Zoning Map, together with everything shown thereon, is hereby adopted and declared to be a part of this Zoning and Subdivision Law.

D. Interpretation of District Boundaries

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

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, lakes, or other bodies of water shall be construed to follow such center lines.
2. Boundaries indicated as approximately following Town limits shall be construed as following such Town limits.
3. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
4. In other circumstances not covered by the rules above, the Code Enforcement Officer shall interpret the district boundaries.

ARTICLE IV: DISTRICT REGULATIONS

A. Purpose

For each district established in Article III, the following use regulations and dimensional standards shall apply.

B. Use Regulations

No structure or land shall be used except as provided below and in Schedule A: Permitted Uses. See Article XVII for definitions of each use category.

1. Permitted Uses by Right

All uses listed shall be permitted by right in the zoning district where the use is listed, provided that all other requirements of this Law are met. All permitted uses are indicated in Schedule A with a "P."

2. Permitted Uses with a Special Use Permit

All uses permitted upon issuance of a Special Use Permit by the Planning Board. All Special Permit uses are indicated in Schedule A of this Article with a "SP."

3. Prohibited Uses: Any use not listed in Schedule A

Permitted uses of this Law are deemed prohibited unless such principal or accessory uses are expressly permitted elsewhere by this Law or a use variance is granted in accordance with the provisions of this Law. The following uses are expressly prohibited:

- a. New installations of Individual Manufactured Homes located on individual lots outside of a Manufactured Home Park, except the replacement of existing individual manufactured homes as permitted in Article VI, Section L, Replacement of Individual Manufactured Homes.
- b. Heavy Industry.
- c. Facilities for the disposal of hazardous or radioactive material or waste.

4. Accessory Uses

All accessory uses permitted by right or with a Special Use Permit are listed in Schedule A: Permitted Uses, provided that all other requirements of this Law are met. Any accessory construction attached to a principal building, including being attached by means of a breezeway or a roofed passageway with open or latticed sides, is deemed to be part of such principal building in applying these regulations.

5. Mixed Use

The Town of Germantown encourages the mixing of uses where such mixing does not create land use conflicts. Accordingly, all Special Use Permit and/or Site Plan reviews for the same project shall be consolidated into one proceeding before the Planning Board (except where the Town Council or Zoning Board of Appeals has jurisdiction over a Special Use Permit).

6. Change of Use or Structure

A change of use is the initiation of a use that is in a different use category, as listed in Schedule A, from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in the enlargement or addition of a sign.

a. Uses by Right

Any change of use of land or existing structures to a use permitted by right without Site Plan review shall not require approval from the Planning Board or the Code Enforcement Officer. This shall not affect applicable requirements for obtaining building permits for construction or expansion of a structure from the Code Enforcement Officer under Article XV, Administration and Enforcement of this Law.

b. Uses by Right Subject to Site Plan Review

Any change of the use of an existing structure to a use permitted by right subject to Site Plan review shall require Site Plan review only if it involves the construction or enlargement of a structure, the addition of 4 or more parking spaces, or the enlargement or addition of signs.

c. Uses by Special Use Permit

(1) A Special Use Permit shall be required for any change of use from a use that does not require a Special Use Permit to a use that does require a Special Use Permit.

(2) Once a Special Use Permit has been granted, it shall run with the land and apply to the approved use and to all subsequent owners, tenants, and occupants engaged in the same use. The Special Use Permit shall also apply to any subsequent use of the property in the same use category, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the Special Use Permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas. Any change to another use

allowed by Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.

7. Rebuilding, Replacement and Expansion of Structures

The rebuilding or replacement on the same footprint of any structure for a use which requires Site Plan review and/or a Special Use Permit shall require Site Plan review, even if it is a continuation of the same use.

C. Lot, bulk and other dimensional Standards

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height for each district are specified in Schedule B: Dimensional Standards and are supplemented by the regulations in this Section and other sections of this Law.

1. Compliance with dimensional standards of Schedule B

The size, width, depth, shape and orientation of lots must comply with the applicable Dimensional Standards of Schedule B and other requirements specified in this Section C and other sections of this Law.

2. Height

- a. Principal buildings: Maximum height shall not exceed 35 feet or 2 ½ stories except that such height limits shall not apply to all agricultural uses, church spires, belfries, cupolas, or domes not used for human habitations, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, green roof systems or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
- b. Accessory structures: Maximum height shall not exceed 15 feet except for garages, which shall not exceed 26 feet.

3. Accessory Structures and Uses

- a. All accessory structures and uses permitted in Schedule A, Permitted Uses, shall meet the setback requirements of Schedule B except in the following situations:
 - (1) Tool and garden sheds may have a rear and side yard setback of 10 feet or the minimum side and rear yard setback for the district in which the shed is located, whichever is lesser.
 - (2) In the NR, AR, RR and HR Districts no accessory use or structure shall be placed within a required front yard with the following exceptions:

(a) Farm stands that meet the additional standards of Article V, Section F.

(b) Off-street parking areas for up to 3 cars. Related driveways, as described in Article VII, Section E, Off Street Parking and Loading, may have a rear and side yard setback of 10 feet or the minimum rear and side yard setback for the district in which the driveway is located, whichever is lesser.

(3) In the HMU District no accessory use or structure shall be placed within a required front or side yard.

(4) In the HMU, HC and BD Districts the location of accessory structures and uses are further addressed in Article VII, Subsection A, Building Design Standards.

b. Accessory Apartments and Accessory Residential Structures

One accessory apartment per single-family dwelling not exceeding 800 square feet may be located in an accessory structure or a principal building as provided in Schedule A: Permitted Uses. The lot containing the accessory apartment must contain the minimum acreage required by Schedule B: Dimensional Standards, unless it is in a Major Subdivision approved after the effective date of this Law. The accessory apartment shall not be counted as a residential unit for purposes of determining density. Apartments located in garages attached to the principal dwelling by means of a breezeway shall be considered an accessory apartment, not a two-family dwelling. No permit of any kind shall be granted for an accessory apartment without adequate septic or sewer service.

4. Number of dwellings on a lot

In the NR, AR, RR and HR districts, no more than one (1) principal building is permitted on a lot except for lots used for permitted agricultural uses or unless otherwise provided in the applicable zoning district regulations.

5. Undersized lots

Lots of record at the time of adoption of this Law which are less than the minimum lot size shall be deemed to meet the minimum size regulations of this Law. Nothing contained herein shall prohibit the use of an undersized lot of record, provided that such lot may not be used for more than one (1) dwelling unit and its associated accessory structures, all other regulations as required in Schedule B: Dimensional Standards for that district shall be met, and that there is no further subdivision of the lot.

6. Corner lots

On a corner lot in any district there shall be 2 front yards. The front yard setback for each front yard shall be the minimum required front yard for the district in which each front yard is located. One rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his or her application for a permit.

7. Through lots

Where a lot extends through from street to street, the applicable front yard setbacks in Schedule B: Dimensional Standards shall apply on both street frontages.

8. Flag Lots

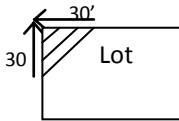
The minimum front yard setback for the “flag” portion (buildable portion) of a flag lot, as defined in this Law, shall be equal to or greater than the required rear yard setback standard in Schedule B for the district in which the flag lot is located. The purpose of this is to ensure that there is an appropriate setback (buffer) between structures on a flag lot and the lot in front of the flag lot.

9. Transitional Yards

- a. Lots in 2 districts: Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot may extend not more than 30 feet into the more restricted portions, provided that the lot has frontage on a street in the less restricted district.
- b. Yard requirements for zoning districts abutting residential districts: Where the corner lot of a HMU, HC or BD zone fronts on a street that is otherwise residential and zoned AR, RR or HR, yard requirements for the frontage on such residential street shall be the same as required for the AR, RR or HR district.

10. Visibility at intersections

On a corner lot in any district, no fence, wall, hedge, sign or other structure or planting, more than 3 feet in height, shall be erected, placed or maintained within 30 feet of the triangular area formed by the intersecting street lines and a straight line adjoining said street lines at points which are 30 feet distant from the point of intersection, measured along said street. The height of 3 feet shall be measured above the curb level, if any, or above the existing road level. In no event, however, shall a hazard to traffic be erected or maintained.



11. Projections into yards

- a. Terraces and patios. A paved terrace or patio may be included as part of the yard in determination of yard size; provided, however, that such terrace is unroofed and without walls or parapets. Such terrace or patio, however, may have a guard railing not over 24 inches in height and shall not project into any yard to a point closer than 5 feet to any lot line.
- b. Porches and decks. No porch or deck may project into any required yard. A porch or deck shall be considered part of the building in determining the size of yard or amount of lot coverage.
- c. Projecting architectural features (horizontal). The space in any required yard shall be open and unobstructed, except for the ordinary projection of the windowsills, bay windows, belt courses, chimneys, cornices, eaves and other architectural features; provided, however, that such features shall not project more than 18 inches into any required yard.
- d. Fire escapes. Open fire escapes may extend into any required yard not more than 3 feet; provided, however, that such fire escape shall not be closer than 4 feet at any point to any lot line.

12. Maximum Density Calculation for conversions of existing buildings to Multi-Family

Buildings in existence prior to the adoption of this Law may be converted to multi-family use if permitted in Schedule A: Permitted Uses. The minimum lot size per dwelling unit (density) requirement of Schedule B and Section C.3. of this Article may be waived for the conversion of an existing building to multi-family. Maximum density shall be established by the Planning Board based upon applicable review criteria included in Article VI, Section O, Additional Regulations for Specific Uses, and the characteristics of the existing building. Conversions to mixed residential and compatible non-residential uses are encouraged where permitted.

SCHEDULE A: PERMITTED USES								
P = Permitted as of right			SP = Special Permit Required			Blank = Prohibited		
USE CATEGORY	NR	AR	RR	HR	HM	HC	BD	Additional Standards
RESIDENTIAL USES								
Dwelling, single-family	P	P	P	P	P		P	
Dwelling, two-family		SP	P	P	P			
Dwelling, multi-family				SP	SP			Article VI, O
Dwelling, new conversion of existing single family to two or multi-family	SP	SP	SP	SP	SP			
Dwelling, seasonal cottage, cabin	P	SP	SP					
Dwelling, units above first floor commercial	P	P	P	P	P	P		
Manufactured Home Park						SP		Article VI, M
Residential Care Facility			SP	P				
Townhouses			SP	P				
COMMUNITY USES								
Cemetery		SP	SP	SP				
College, University, Vocational School			SP		P	P	P	
Community Center	SP	SP	SP	P	P	P	P	
Cultural facility		SP	SP	SP	P	P		
Daycare, child/family daycare facility		P	P	P	P	P		
Municipal facility	SP	P	P	P	P	P	P	
Park and recreation, public	P	P	P	P	P	P		
Public Transportation Shelter		SP	SP	SP	SP	SP	SP	
Public utility (unless otherwise listed)	SP	SP	SP	SP	SP	SP	SP	
Religious institution and related facilities	P	P	P	P	P	P	P	
Schools, elementary/secondary, public or private		SP	SP	SP	SP	SP		
Wireless Communications Towers			SP					Article VI, AA
COMMERCIAL USES								
Adult Uses							SP	Article VI, A
Agriculture, excluding animal husbandry	P	P	P	P			P	Article VI, F
Animal Husbandry (raising of livestock)	P	P	P				P	Article VI, I
Art Gallery				SP	P	P		
Artist Studio, Artist Loft	P	P	P	P	P	P	P	
Assembly and meeting facility					SP	P		
Bar or tavern					SP	SP		
Bed and Breakfast	SP	SP	SP	P	P	P		
Broadcasting facility, radio or television						P	P	
Car Wash						SP		Article VI, B
Entertainment and recreation, indoor, commercial					SP	P	P	
Entertainment and Recreation, outdoor, commercial						SP	SP	Article VI, E
Extraction, private (quarries, clay, sand and gravel pits)		SP						
Funeral homes				P	P	P		

SCHEDULE A: PERMITTED USES								
P = Permitted as of right			SP = Special Permit Required			Blank = Prohibited		
USE CATEGORY	NR	AR	RR	HR	HM	HC	BD	Additional Standards
<i>Gasoline Station, with/without Convenience Store</i>						SP		Article VI, G
Greenhouse, plant nursery	P	SP	SP			P		
Hotel or Inn					P	P		
Kennel or Animal Shelter		SP	SP			P		Article VI, K
Light Industry (not listed separately in Schedule A)							P	
Membership Club	SP	SP	SP	SP	P	P	P	
Motel						P		
Motorized Vehicle Sales, Lease or Rental Establishment						P		
Motor Vehicle Repair Garage						P	P	Article VI, N
Office, Professional or General				SP	P	P	P	
Research and Development Facility					P	P	P	
Restaurant				SP	P	P		
Retail and Service Establishment (not listed separately in Schedule A)					P	P		
Riding Academy	SP	SP	SP					Article VI, H
Saw Mill		SP						Article VI, T
Self Storage Unit Facility							SP	Article VI, U
Sportsman's Club and Outdoor Firing Ranges	SP	SP						Article VI, P
Trucking Terminal							P	Article VI, X
Veterinarian, Veterinary Hospital or Clinic		SP	SP			P		
Warehouse							P	
Wholesale and Distribution Facility						SP	P	
ACCESSORY STRUCTURES AND USES								
Accessory Apartment to single family dwelling	SP	SP	SP	SP	SP	SP		Art. IV, C.3.b
Customary accessory structure or use	P	P	P	P	P	P	P	
Drive-through windows						SP		Article VI, C
Elder Cottage Housing (ECHO Unit)	SP	SP	SP	SP				Article VI, D
Farm Stands, temporary	P	P	P	P	P	P	P	Article VI, F
Farm Stands, permanent	SP	SP	SP	SP	P	P	P	Article VI, F
Greenhouse, commercial, accessory to residence	SP	SP	SP	SP	P	P		
Home Occupation, Minor or Major	P	P	P	P	P	P	P	Article VI, H
Housing, temporary for farm workforce	SP	SP	SP	SP				Article VI, J
Outdoor Storage, commercial use							P	Article VI, Q
Outdoor Storage, residential	P	P	P	P	P	P	P	Article VI, R
Outdoor Wood Furnace/Boiler	P	P	P					Article VI, S
Solar Energy System, detached	P	P	P	SP	SP	SP	P	
Tractor trailers, tandem-axle, tri-axle, other vehicles of 18,000 pounds or more, except for agricultural use	SP	SP	SP	SP				Article VI, Y
Wind Energy System, Small	SP	SP	SP	SP	SP	SP	SP	Article VI, Z

SCHEDULE B: DIMENSIONAL STANDARDS						
District	Minimum Lot Area ¹ (SF = square feet)	Maximum Lot Coverage/ Impervious Surface	Minimum Lot Width	Required Yard Setbacks		
				Front (Minimum/ Maximum)	Side One/total for both	Rear
Natural Resource	10 acres	N/A	200 feet	100 feet/None	50/100 feet	50 feet
Agriculture Residential	3 acres	N/A	200 feet	75 feet/None	20/45 feet	40 feet
Rural Residential	2 acres	N/A	125 feet	50 feet/None	20/60 feet	50 feet
Hamlet Residential	7,500 SF plus 2,500 SF per dwelling unit with public sewerage; 1 acre without public sewerage	35%	75 feet	20 feet/40 feet	10/20 feet	30 feet
Hamlet Mixed Use ²	0 SF for nonresidential uses; 5,000 SF plus 2,500 SF per dwelling unit with public sewerage; 1 acre without public sewerage	80%	None	0 feet or the average of the adjacent front yards/20 feet maximum	5/10 feet	20 feet
Hamlet Commercial	20,000 SF	50%	75 feet	25 feet/50 feet	15/30 feet	25 feet
Business Development	1-acre for all residential and nonresidential uses	30%	75 feet	75 feet/none	25/50 feet; for all nonresidential uses with a side yard abutting a NR, AR, RR or HR District that side shall be 150 feet	30 feet; for all nonresidential uses the rear yard shall be 150 feet if it abuts a NR, AR, RR or HR District

ARTICLE V: SCENIC VIEWSHED OVERLAY DISTRICT

A. Purpose and Intent

The Town of Germantown intends to protect its scenic Hudson River corridor and the Catskill Mountain viewshed in accordance with the Town's Comprehensive Plan. The purpose of the Scenic Viewshed Overlay (SVO) District is to protect the community's views to the Hudson River and Catskill Mountains by siting new development in a way that protects both the environment and scenic beauty of Germantown's Hudson River corridor.

B. Applicability

1. The SVO District is overlaid onto the underlying zoning districts. All provisions of the underlying districts shall be applied except where provisions of the SVO District differ. In such cases, the more restrictive provision shall apply.
2. In order to grant approval for a subdivision of property, construction or alteration of any principal or accessory use within the SVO District, the Code Enforcement Officer, Planning Board or Zoning Board of Appeals, whichever is applicable, must find that the use or alteration is in compliance with the regulations of this Article and all other applicable regulations of this Law.

C. Site Development Standards

To the extent possible, all structures to be built within the SVO District shall be sited and clustered in such a way as to avoid or minimize the obstructing of the Hudson River and Catskill Mountain viewshed. This may be accomplished by the following:

1. Building Design and Placement
 - a. Development shall be located in a manner that maintains the existing landscape features to the greatest extent feasible by locating buildings on natural topography.
 - b. Long, unbroken planes of building frontage shall be avoided whenever feasible if public views will be obstructed. For example, the gabled ends of buildings may be oriented toward the road to mitigate view obstruction.
 - c. Colors and materials should be compatible with surrounding structures and natural features to blend buildings into the landscape.

- d. Development should be clustered near existing trees or other buildings whenever possible or on the down-slope of existing tree clusters instead of creating new view obstructions.
2. Lighting: Off-site lighting impacts shall be minimized. Outdoor lighting fixtures mounted in excess of 14 feet above grade shall be prohibited. Only cut-off lighting fixtures shall be used.
3. Roads and Driveways: Roads and Driveway shall take into consideration existing contours and, to the extent practical, contours following existing linear features such as tree lines or stone walls.
4. Utilities: All on-site utilities shall be located underground. The Planning Board may waive this requirement as part of Site Plan approval where the applicant can demonstrate that site conditions make undergrounding impractical or where required by the Utility Company to be otherwise located. If this provision is waived by the Planning Board, every attempt shall be made to establish utility corridors that are shared with other utilities and shall be located to minimize site disturbance, and any adverse impacts to the natural, cultural or scenic resources in the SVO district.

ARTICLE VI: ADDITIONAL REGULATIONS FOR SPECIFIC USES

A. Adult Uses

1. Adult uses shall be permitted only in the Business Development (BD) District subject to the following restrictions:
 - a. No more than one adult use shall be permitted on any lot, and no such use shall be permitted within 750 feet of any other such use.
 - b. No adult use shall be permitted in any building used in whole or in part for residential purposes.
 - c. No adult use shall be permitted on any lot that is located within 250 feet of any lot used for residential purposes in a residential district.
 - d. No adult use shall be permitted on any lot that is located within 250 feet of any lot on which is located a school, place of worship, cemetery, community center, day care center, public park, playing field, bike path or recreational facility.
 - e. No adult use shall be conducted in any manner that allows the observation of any material depicting, describing or relating to any sexual act or any part of the anatomy from any public way or from any other property. This provision shall apply to any display, decoration, sign, show, window or other opening.
 - f. There shall be no outdoor sign, display or advertising of any kind other than an identification sign limited to only the name of the establishment.
 - g. Adult uses shall comply with all other requirements of this Law, as well as all other applicable Town, County, State and Federal Laws and regulations.
2. The distances provided in Section 1 above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the parcel lot line upon which the adult use is to be located to the nearest point of the parcel lot line or the land use district boundary line from which the adult use is to be separated.

B. Car Wash

1. This section applies to any car wash established as a permanent use. This section does not apply to temporary car washing activities sponsored by schools, churches or other nonprofit organizations or groups in order to raise money for designated events.
2. No building, parking or service area shall be closer than 100 feet to any existing residential structure.

3. Ingress and egress shall be so designed as to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to the explicit approval of the Planning Board.
4. In addition to meeting any off-street parking requirements of this law, any car wash shall provide a minimum of 4 stacking spaces per bay on the lot.
5. As part of Site Plan approval for car washes, evidence of an adequate long-term source of public or private water shall be submitted to show that water usage will not affect surrounding properties.
6. Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles unless one of these uses is the permitted principal use on the lot and the car wash is an accessory use to that principal use.

C. Drive-through Window Facilities

Due to potential impacts on traffic volume, vehicular and pedestrian circulation and the environment, the following additional standards are required for the permitting of drive-through windows.

1. Site location criteria.

The site of the drive-through window shall meet the following criteria:

- a. The drive-through shall not be located within 50 feet of a lot line of an NR, AR or RR district;
- b. The use shall not substantially increase traffic on streets in a NR, AR or RR district;
- c. The use shall not substantially lessen the usability of adjacent or nearby commercially zoned property or commercial use by interfering with pedestrian traffic;
- d. The site shall be adequate in size and shape to accommodate said use and to accommodate all yards, parking, landscaping, and other required improvements; and
- e. The use shall not substantially lessen the usability and suitability of an adjacent NR, AR or RR district for residential use.

2. General design standards

All the following must be provided for the primary use to be granted a building permit for a drive-through window:

- a. All lighting on the exterior of the building shall be of an indirect nature, emanating only from fixtures located under canopies or hoods, under eaves of buildings and at ground level in the landscaping. Freestanding pole lights shall not exceed a maximum height of 14 feet and shall be so arranged and shielded that there shall be no glare or reflection onto adjacent properties or public rights-of-way.
- b. Signs should be placed and waiting lanes should be designed so that waiting cars do not block sidewalks or public streets.
- c. Landscaping, waiting-lane devices and overall design should not prevent vehicles from safely and efficiently leaving waiting lanes.
- d. Traffic circulation
 - (1) A traffic study addressing both on-site and off-site traffic and circulation impacts is required.
 - (2) Pedestrians must be able to enter the establishment from the parking lot or sidewalk without crossing the waiting or exit lines.
 - (3) Waiting lanes shall be designed for the maximum length possible. At a minimum, waiting lanes should accommodate average peak monthly traffic flow, allowing 23 feet per vehicle. Applicants must provide data about the peak flows of the business to determine the minimum waiting needed.
 - (4) The waiting lane shall be independent of any on-site parking, parking maneuvering areas, public streets or traffic ways serving other on and/or off-site uses.

3. Site Plan requirements

In addition to the general requirements for site plan review, drive-through window site plans must also include the following features:

- a. Design and placement of signs to ensure that they facilitate the safe and smooth flow of traffic.
- b. Details of pedestrian and vehicular circulation.
- c. Details of waiting lanes, including location and design of curbs, gates, bollards and chains, pavement markings and similar devices.

D. Elder Cottage Housing Opportunity (ECHO)

1. The principal dwelling on the premises must be owner-occupied.
2. The principal dwelling must be located on a single lot that meets the lot development standards of Article IV, Schedule B: Dimensional Standards.
3. There must be adequate water supply and sewage disposal facilities for both the principal dwelling and the ECHO unit.
4. All further requirements of the Town of Germantown with respect to occupant eligibility and the use, maintenance and removal of such temporary accessory dwelling units are acknowledged in writing by the applicant, including the requirement that a license for the location and use of the ECHO unit be issued and annually renewed with by Planning Board and the further requirement that the structure be properly removed from the premises and its site restored to lawn or landscaped area within 6 months of the discontinuance of its use as an ECHO unit.

E. Entertainment and Recreation Facility, Outdoor Commercial

1. Commercial outdoor recreational facilities shall be limited to those customarily considered to be outdoor sports as defined in this Law, excluding those sports that are spectator oriented or that are similar to automobile or motorcycle racing.
2. A landscaped strip providing screening and buffering shall be located between any public right of way and along the perimeter of the site. The strip shall meet the perimeter landscaping requirements of Article VII, Section C, Landscaping and Screening.

F. Farm/Road Side Stands

1. Roadside stands or farm stands are permitted provided that such use meets the following standards:
 - (a) A temporary stand is set back a minimum of 10 feet from the public right-of-way.
 - (b) A permanent stand on a property used for agricultural purposes as defined in this Law shall be set back a minimum of 20 feet from the public right-of-way or meet the setback standards for the zoning district in which the stand is located; whichever is lesser.
 - (c) For temporary stands, one (1) temporary sign a maximum of 6 square feet in size shall be permitted, however, such sign shall be located at least 10 feet from the public right-of-way.

- (d) For permanent stands, the sign standards of Article VII, Section G Signage, subsections 7 or 8.
- (d) Safe ingress and egress from the farm or roadside stand shall be required including the provision of adequate pull-off areas and parking for at least 3 vehicles.

G. Gasoline Station

1. Definitions

- a. A “canopy” means any structural protective cover that is not enclosed on any of its 4 sides and is provided for a service area designated for the dispensing or installation of gasoline, oil, antifreeze, headlights, wiper blades and similar products.
- b. A “fuel pump” means any device that dispenses automotive fuel and/or kerosene. A fuel pump may contain multiple hoses or be capable of serving more than one (1) fueling position simultaneously.
- c. A “pump island” means a concrete platform on which fuel pumps are located.

2. Generally

- a. No building, parking or service area shall be closer than 100 feet to any existing residential structure.
- b. All accessory services shall occur within buildings enclosed by a roof and a wall.
- c. Principal buildings shall be oriented to the street.
- d. Principal buildings and canopies shall have pitched roofs.
- e. All fuel pumps and pump islands shall be set back a minimum distance of at least 15 feet from any right-of-way line or property. Fuel pumps and canopied areas shall be located between the principal building and the rear lot line and not between the building and the street.
- f. Outdoor storage of motor vehicles shall be prohibited at all times. Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles.

3. Canopies

- a. Canopies shall not exceed 16 feet in height or the height of the principal building, whichever is less.
- b. Canopies shall be architecturally integrated with the principal building and all other accessory structures on the site through the use of the same or compatible materials, colors and roof pitch.
- c. Any lighting fixtures or source lights that are a part of the underside of the canopy shall be recessed into the underside of the canopy so as not to protrude below the canopy ceiling surface more than 2 inches.
- d. Permitted materials for canopies include brick, stone stucco and any other material if consistent with an architectural style permitted in Article VII, Section C, Building Design Standards, if the principal building conforms to that style. The following materials are not permitted:
 - (1) Cinder block;
 - (2) Unfinished poured concrete; or
 - (3) Unfaced concrete block

H. Home Occupations

1. General Standards apply to all home occupations

The following standards apply to all home occupations in all the NR, AR, RR or HR Districts.

- a. The home occupation shall be clearly incidental and secondary to the use of the lot for residential purposes.
- b. The home occupation is allowed in a residential setting because it does not compromise the residential character of an area, does not generate conspicuous traffic, does not visually call unusual attention to the home and does not generate noise of a nonresidential level.
- c. The home occupation shall be conducted entirely within a principal dwelling or permitted accessory structure. An accessory structure shall include permitted customary structures as provided in Article IV, District Regulations, of this Law and may include the reuse of a barn or other accessory structure constructed prior to the date of adoption of this Law.

- d. No generation of noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall be perceptible beyond the property line.
- e. No residence shall include more than 2 home occupations.
- f. Not more than 800 square feet of the gross floor area shall be utilized for all home occupation activities.
- g. All parking shall be provided off-street. No more than 3 vehicles may be located in the front yard.
- h. Storage of goods and materials associated with a home occupation shall be in an enclosed structure.

2. Minor Home Occupation

The following home occupation activities that meet the standards of Subsection 1 above are considered minor home occupations which do not require a Zoning Permit from the Code Enforcement Officer provided that all persons engaged in such activities reside on the premises.

- a. Artists, sculptors and composers not selling their artistic product to the general public on the premises.
- b. Craft work, such as, but not limited to, woodworking, jewelry-making and pottery with no sales permitted on the premises.
- c. Home offices with no client visits to the home permitted.
- d. Telephone answering and message services.

3. Major Home Occupation

Permitted major home occupations as defined in this Law include activities that meet the standards in Subsection 1 above and are permitted to have a limited number of employees and client visits to the residence. A Zoning Permit from the Code Enforcement Officer as described in Article XV, Administration and Enforcement, shall be required for all major home occupations. The following standards apply to Major Home Occupations:

- a. No more than 2 nonresident employees shall be permitted.
- b. No more than 6 clients per day are permitted to visit a home occupation. Hours for visits shall be between 8:00 AM and 8:00 PM.

- c. Parking shall be provided off-street. No more than 3 vehicles may be located in the front yard.
 - d. One sign meeting the sign regulations of Article VII, Section G, Signage, shall be permitted.
4. Uses Prohibited as Home Occupations

The following activities shall not be permitted as a home occupation in any district and must be a permitted principal use in Schedule A: Permitted Uses:

- a. Emergency medical service
- b. Kennels
- c. Medical office, dental office or medical procedure
- d. Motor vehicle repair and engine repair, except small engine repair as defined in this Law.
- e. Religious institutions
- f. Residential care facilities
- g. Restaurants and bars
- h. Retail sales except those incidental to a product created on site or service provided.

I. Horse Boarding, Commercial

- 1. A commercial horse boarding establishment shall be at least 7 acres in size.
- 2. One acre per horse shall be required where pasture is to be used for sustenance.
- 3. One acre per 5 horses shall be required where feed is brought in and manure is exported out (turn-out system).
- 4. Prior to the establishment of a commercial horse boarding operation, a plan describing how manure will either be used or removed from the farm (e.g. by landspreading, composting or periodic removal) is required.
- 5. Manure that has not been composted or spread shall not be stored and remain on the farm for a period in excess of one (1) year.

J. Housing for Farm Workers

1. Housing for farm workers and their families on farms located in the Town of Germantown within an Agricultural District as defined by New York State Agricultural and Markets Law shall be permitted as accessory agricultural uses with the following conditions:
 - a. Housing for farm workers shall be in the form of either dwelling units within an accessory structure on the site that shall require a building permit from the Code Enforcement Officer, or, a manufactured home as defined in this Law in Article XVII, Definitions.
 - b. Manufactured homes as permitted in this section are exempt from the size and design standards of this Article, Section L, except that the Code Enforcement Officer shall consider the manufactured home structurally sound and free of heating and electrical system hazards.
 - c. Housing structures shall meet the setback standards for accessory uses as described in Article IV, District Regulations.
 - d. Farm worker housing structures shall not be permitted to be parceled off and sold as separate residences nor is any use other than for housing of farm workers permitted.
 - e. Farm worker housing that has not been used for such purposes for 3 or more years shall be removed from the property.

K. Kennels

1. The required minimum lot size for all kennels is 7 acres.
2. All kennels with outdoor exercise pens or kennels shall be located no closer than 150 feet to any adjoining property line.
3. Adequate landscaping and/or fencing shall be provided to create a visual, sound, and odor buffer between such facility and adjacent properties.
4. Adequate provision for the storage and removal of all animal wastes shall be made. In particular, no manure storage area shall be located within 300 feet of any residence or street right-of-way.

L. Manufactured Home, Individual, Replacement of

Manufactured homes must meet the development standards of the base zoning district, except on individual lots in manufactured home parks that were created under the provisions of this Law. All manufactured homes outside of a manufactured home park shall conform to the following design and development standards:

1. **Ownership:** The person(s) desiring to place a manufactured home within the Town shall own the real property upon which the home is to be placed.
2. **Nonconforming Manufactured Home:** Existing manufactured homes in place at the time of adoption of this Law may continue as a legal nonconforming use.
3. **Replacement:** Existing manufactured homes that do not meet the standards of this Law may be replaced with a manufactured home, on the existing lot, as long as they meet or exceed the Uniform Building Code standards and the following design standards:
 - a. **Minimum Size.** All replacement manufactured homes shall exceed 700 square feet of gross floor area.
 - b. **Separation from other dwellings.** All replacement manufactures homes located in a manufactured home park must be separated from other dwellings within the manufactured home park by at least 30 feet in any direction.
 - c. **Foundation.** There must be a continuous, permanent foundation, unpierced except for required ventilation and access installed under the home. The foundation may be concrete or other material allowed by the Uniform Building Code for site built homes which is aesthetically compatible with the home and having the appearance of site built construction.
 - d. **Exterior siding.** The exterior siding must be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction such as wood, hardboard or metal or any other material allowed by the Uniform Building Code for site built homes which is aesthetically compatible with the home and having the appearance of site built construction. Vinyl covered or painted siding may in no case exceed the reflectivity of gloss white paint. Metal siding must be painted or anodized. Manufactured homes and manufactured home decks must be skirted to blend with the color and texture of the manufactured home exterior. Skirting shall be installed within 30 days of setup.

- e. Hauling mechanisms. All mechanisms used to transport the manufactured home to the site including, but not limited to the hitch, transporting lights and removable towing apparatus must be removed within 30 days of setup.

M. Manufactured Home Park

- 1. All manufactured home parks constructed after the adoption of this Law shall conform to the following standards.
- 2. All manufactured home parks are subject to Site Plan review and require a license which shall be annually renewed. Site Plan review shall be conducted by the Planning Board as part of the licensing process required in Subsection 5 below.
- 3. Manufactured Home Design

Manufactured homes, whether new, used or refurbished, to be located on unimproved lots, must comply with the following design and development standards:

- a. Dimensions. The manufactured home must be at least 1,000 square feet in floor area. Length must not exceed 4 times the width, which may be calculated using the measurements of a carport or an enclosed porch. Width must be at least 18 feet wide.
- b. Roof. The pitch of the roof must have a minimum vertical rise of one (1) foot for each 5 feet of horizontal run. Any roofing material may be used provided it has the appearance of a non metallic shingle, shakes or tile which is commonly used in standard residential construction. Eaves from the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls. All roof areas shall have gutters with runoff draining through piped connections to the permitted drainage system.
- c. Foundation. There must be a continuous, permanent foundation, unpierced except for required ventilation and access installed under the home. The foundation may be concrete or other material allowed by the Uniform Building Code for site built homes which is aesthetically compatible with the home and having the appearance of site built construction. This means that the fascia shall be an extension siding or be of materials having the appearance of site built foundations such as brick concrete or concrete block.
- d. Exterior siding. The exterior siding must be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction such as wood, hardboard or metal or any other material

allowed by the Uniform Building Code for site built homes which is aesthetically compatible with the home and having the appearance of site built construction. Vinyl covered or painted siding may in no case exceed the reflectivity of gloss white paint. Metal siding must be painted or anodized. Manufactured homes must be skirted to blend with the color and texture of the manufactured home exterior. Skirting shall be installed within 30 days of setup.

- e. Hauling mechanisms. All mechanisms used to transport the manufactured home to the site including, but not limited to, the hitch, transporting lights and removable towing apparatus must be removed within 30 days of setup.
4. Park Design Standards
- a. Design Team: All manufactured home parks shall be designed by a design team which shall include an architect or landscape architect, and a civil engineer, all licensed by the State of New York.
 - b. Minimum Size: The minimum lot size for a manufactured home park is 10 acres.
 - c. Park Dimensional Standards: All manufactured home parks shall be subject to Site Plan review. In addition to the site plan requirements of Article XIII, Site Plan Review, of this Law, manufactured home parks shall be further subject to the following requirements:
 - (1) Minimum Frontage: The manufactured home park shall have a minimum frontage of 100 feet on a public street.
 - (2) Lot Coverage: The maximum lot coverage of structures in the park shall not exceed 50% of the gross site area.
 - (3) Common Recreation Area: A minimum of 25% of the site area of the manufactured home park shall be reserved for recreation facilities to be used in common by park residents.
 - (4) Setback Requirements – Perimeter: The minimum setback requirements for the perimeter of a manufactured home park shall be as follows:
 - (a) Front Yard: The minimum front yard shall be 80 feet. Each yard abutting a public street shall be considered a front yard.
 - (b) Other Yards: All other yards shall be a minimum of 50 feet.
 - d. Individual Lot Requirements within the Park
 - (1) Lot Size: Individuals home lots shall be at least 7,500 square feet.

- (2) Lot Width: Minimum lot width for each home lot shall be 50 feet.
- (3) Front Setback: The minimum front yard for an individual manufactured home lot shall be 10 feet from the edge of the curb or sidewalk closest to the manufactured home.
- (4) Structure Separation: The minimum separation between dwellings shall be 30 feet in any direction.

e. Street Specifications

- (1) Width of Right-of-Way: 50 feet.
- (2) Pavement Width: Minimum of 18 feet; maximum 22 feet.
- (3) Shoulder Width: Minimum of one (1) foot each side.
- (4) Cul-de-sacs: A cul-de-sac shall have a maximum length of 500 feet. Each cul-de-sac shall have a turn-around area at its terminus with a minimum radius of 30 feet.
- (5) Street Construction: All private streets shall have a crowned profile and shall be constructed of asphaltic concrete or Portland cement.

f. Utilities

The following utilities and service facilities shall be provided in each manufactured home park which shall be in accordance with the regulations and requirements of the Columbia County Department of Health, the New York State Department of Health, and the Sanitary Code of New York State.

- (1) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all manufactured home lots and buildings within the park to meet the requirements of the park. Each manufactured home lot shall be provided with proper water connections.
- (2) Each manufactured home lot shall be provided with a sewer, which shall be connected to the manufactured home situated on the lot, to receive the waste from shower, tub, flush toilets, lavatory and kitchen sink in such home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed to prevent the creation of breeding places for insects.
- (3) Metal garbage cans with tight fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be

kept in sanitary condition at all times. The cans shall be located no further than 200 feet from any manufactured home lot. Garage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that such cans shall not overflow.

- (4) All storm water shall be collected on the site in a piped storm drainage system, unless otherwise approved by the Planning Board. The developer and the Planning Board shall consult the most current version of the New York State Storm Water Management Design Manual for best practices. Underground service connection shall be made from each manufactured home to the street gutter. Storm water from the manufactured home park shall be piped to a public storm drain line, if available. The developer may be required to construct an off-site storm drainage system acceptable to the Planning Board.
- (5) All electrical, telephone and television cable lines shall be located underground.
- (6) Unless adequate commercial laundry facilities are available within 3 miles of the park, laundry facilities shall be provided at strategic location of locations for the convenience of the occupants of the manufactured homes if 16 or more homes do not have washers.
- (7) Other service buildings shall be provided as deemed necessary for the normal operation of the park, however, such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.

g. Parking

Off-street parking spaces shall be required as follows: one (1) space per lot or unit whichever is greater. In addition, one (1) space shall be provided for each vehicle used in connection with the facility. If no parking is provided on private streets, the one (1) space must be provided for each 5 dwelling units for guest parking. All driveways for individual manufactured homes and off-street parking areas shall be paved with asphalt or concrete. No parking shall occur in a perimeter yard.

h. Recreational Vehicles

Storage areas for vehicles, including motor homes, recreation trailers, boats, boat trailers or other similar vehicles or equipment shall not be located within 100 feet of the perimeter lot lines of a manufactured home park site. Recreation vehicle storage areas shall have a 10 foot yard between the storage area and the nearest

structure. Said storage areas shall be screened from the view of adjacent structures by a sight-obscuring fence or landscaping.

i. Landscaping

All land within a manufactured home park not paved or containing a structure shall be landscaped with grass, trees, shrubs or flowers in a manner that will enhance the residential character of the manufactured home park and surrounding neighborhood. All landscaping shall be maintained, said maintenance to include regular irrigation, mowing, removal of weeds and trimming and pruning as necessary.

j. Perimeter Landscaping or Fencing

All yards, except the front yard, shall have a continuous permanently maintained perimeter landscaping or fence separating the manufactured home park from the adjacent property.

5. Site Plan Review and Licensing

- a. All manufactured home park developments are subject to Site Plan review.
- b. All manufactured home parks approved after the adoption of this Law require a license which shall be renewed annually. No person or persons who are the owners or occupants of any land or premises within the Town of Germantown shall use or permit the use of such land or premises for the establishment or maintenance of a manufactured home park until a license for the establishment or maintenance of such manufactured home park has been obtained. After the issuance of such license, such park shall not be maintained or operated other than in accordance with this Law.
- c. Application for Site Plan approval and licensing shall be made to the Planning Board using forms supplied by, and delivered to, the Code Enforcement Officer.
- d. Upon receipt of an application, the Town Clerk shall immediately send a copy of the application to the New York State Department of Health and request that it make an investigation of the proposed project for the purpose of determining if it would meet the standards required by the State Sanitary Code for Temporary Residences.
- e. For Site Plan review and approval, the Site Plan review procedures of Section B of Article XIII, Site Plan Review, shall be followed. In addition to the information required by Section B, the following information shall be required on the Site Plan:

- (1) The exact layout and dimensions of each manufactured home space.
- (2) The exact layout of all streets and driveways, their widths and the specifications of proposed construction.
- (3) The location of all required services and other improvements and facilities, such as playgrounds, swimming pools or recreation and landscaped areas.

f. Site Plan approval and issuance of license

Upon approval of the application by the State Department of Health and of the Site Plan application by the Planning Board, the Town Clerk shall issue a license, to be effective from and after the date of issuance to and including the 31st day of December next succeeding the date of issuance. If such application is not approved, the Planning Board shall certify the reason for its action, and such decision shall be filed with the Town Clerk, who shall immediately notify the applicant of the decision of the Planning Board.

g. Assignment of license

A license issued pursuant to the terms of this Article shall be assignable only with the consent of the Planning Board.

h. Renewal of license

The holder of a license may, between the first and the 31st of December of each year, file with the Town Clerk an application for a license renewal for the following year. If it shall appear that any change or alteration has been made in the park plan as filed with the Town Clerk, no renewal license shall be issued until such time as the Planning Board shall approve such change or alterations.

i. Revocation of license

- (1) If the Code Enforcement Officer, being directed by the Planning Board to inspect a manufactured home park, finds that such park is in violation of any of the conditions of the license, this law and/or is not being maintained in a clean and sanitary condition he or she shall notify in writing the holder of the license or person in charge of the park of the specific violations and order immediate remediation. Such violations shall be remedied within 10 days after notification. If, after 10 days, such conditions remain unchanged or are not corrected in accordance with said order, the Code Enforcement Officer shall serve a notice in writing upon the park owner or the person in charge of such park, requiring the holder of the license to appear before the Planning

Board at a time to be specified in such notice and show cause why such license should not be revoked.

- (2) The Planning Board may, after a hearing at which testimony and witnesses of the Code Enforcement Officer and of the holder of such license have been heard, revoke such license if the conditions described in the original order have not been corrected in accordance with the terms of such order or if the holder of such license has violated the regulations applicable to such park or has violated any of the provisions of this article or for other sufficient cause. Upon the revocation of such license, the premises shall cease to be used for the purpose of such park, and all manufactured homes shall be removed.

j. Fees

The Town Clerk shall receive a fee as set forth in a fee schedule as adopted by the Town, per manufactured home space for each license or renewal thereof issued by the Clerk, provided that if the original license is issued on or after April 1, the fee shall be 3/4 of the fee, and if issued on or after July 1, the fee shall be 1/2 of the fee, and if issued on or after October 1, the fee shall be 1/4 of the fee.

N. Motor Vehicle Repair Establishments

1. All repair work, storage of materials, supplies, and parts shall be located within a structure completely enclosed on all sides (not to be construed as meaning that the doors of any repair shop must be kept closed at all times).
2. For all overnight storage parking associated with automobile repair uses, perimeter landscaping as prescribed in Article VII, Section C, Landscaping and Screening, shall be provided to screen the parking from the public right-of-way and/or neighboring residential uses.
3. The maximum number of parking spaces devoted to temporary overnight storage of vehicles shall be no more than 3 spaces per repair bay. These spaces shall be clearly delineated on all Site Plan and Special Use Permit applications.
4. Outside storage or parking of any disabled, wrecked or partially dismantled vehicle is not permitted for a period exceeding 10 days during any 30-day period.

O. Multi-Family Dwellings

1. For multi-family units, studio apartments shall be counted as 1/2 of a unit and one-bedroom apartments shall be counted as 3/4 of a unit.

2. The maximum density for new multi-family dwellings shall be 4 units per acre with municipal water or sewer service and 2 units per acre with no municipal water or sewer service. In the HR and HMU Districts, multi-family dwellings shall face an existing or new street, with parking behind the buildings.
3. Apartments located above non-residential uses shall be allowed at the same density as multi-family dwelling units, except that for each lot, one apartment not exceeding 1,000 square feet may be located above a nonresidential use by right as an accessory apartment.

P. Outdoor Shooting Ranges

1. Minimum lot size is 25 acres.
2. Minimum front, side and rear yard setback shall be 750 feet or twice the length of the shot fall area; whichever is greater.
3. Maintenance of an outdoor shooting range shall be in accordance with the best management practices set forth by the United States Environmental Protection Agency (U.S. EPA) and shall minimize the potential for soil and water pollution due to lead contamination. An environmental management plan which demonstrates the application of best management practices shall be part of the special use permit application for an outdoor firing range. The format of the environmental management plan shall follow the basic guidelines set forth by the U.S. EPA in the guidance document “Best Management Practices for Lead at Outdoor Shooting Ranges.”
4. The siting of outdoor shooting ranges shall be so that the shot fall area is not located on water bodies or wetlands and is contained wholly on the lot.

Q. Outdoor Storage Area, Accessory Commercial Use

1. All storage areas shall be at least 25 feet from all property lines.
2. All storage areas shall be screened from view and fenced as required in Article VII, Section C, Landscaping and Screening, to prevent littering the environment.
3. Outdoor storage shall not be construed to include a Junk Yard or any similar use and shall meet the requirements of the Town of Germantown Junk Storage Law.

R. Outdoor Storage, Accessory Residential Use

1. All storage areas shall be at least 20 feet from all property lines.
2. All storage areas shall be screened from view and fenced as required in Article VII Section C, Landscaping and Screening, to prevent littering the environment.

3. Outdoor storage shall not be construed to include a Junk Yard as defined in the Law or any similar use and shall meet the requirements of the Town of Germantown Junk Storage Law.
4. The temporary storage of materials including construction, landscaping and gardening materials such as compost, topsoil and mulch shall be exempt.

S. Outdoor Wood Boilers

1. Purpose

Although outdoor wood boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This section is intended to ensure that outdoor wood boilers are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

2. Definitions

COMMERCIAL-SIZE OUTDOOR WOOD BOILER: An outdoor wood boiler with a thermal output rating greater than 250,000 British thermal units per hour (Btu/h).

RESIDENTIAL-SIZE OUTDOOR WOOD BOILER: An outdoor wood boiler that has a thermal output rating of 250,000 Btu/h or less.

UNTREATED WOOD: Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

3. Permit Required

No person shall install and operate an outdoor wood boiler within the Town of Germantown without first having obtained an Installation Permit and an Operation permit from the Code Enforcement Officer after the effective date of the Law. Any outdoor wood boilers in existence on the effective date of this Law shall be permitted to remain in operation. If an existing unit is replaced, the new unit will be installed in accordance with the requirements of this section and New York State Laws, Rules and Regulations.

4. Specific Requirements

- a. The outdoor wood boiler must be installed, operated and maintained according to manufacturer's instructions. Installation must be inspected by the Code Enforcement Officer prior to the issuance of an operating permit.
- b. The outdoor wood boiler shall only be fueled by firewood, natural untreated lumber or other fuels specifically permitted by the manufacturer (excluding non-

wood products, kerosene, garbage, painted or treated wood, rubber, plastics, yard waste, paper products or cardboard).

c. The outdoor wood boiler must be equipped with a properly functioning spark arrestor.

d. Setbacks

(1) Residential-size outdoor wood boilers

(a) The outdoor wood boilers shall be set back a minimum of 100 feet from any property line.

(b) The outdoor wood boiler shall be set back a minimum of 200 feet from any residential use, school, public recreational use or park.

(2) Commercial-size outdoor wood boilers

(a) The outdoor wood boiler shall be set back a minimum of 200 feet from the nearest property boundary line.

(b) The outdoor wood boiler shall be set back a minimum of 300 feet from a property boundary line of a residentially zoned property.

(c) The outdoor wood boiler shall be set back a minimum of 1,000 feet from a school, public recreational use or park.

(d) Notwithstanding the above, a commercial-size new outdoor wood boiler installed on contiguous agricultural lands larger than 5 acres must be sited 300 feet or more from the nearest residence not served by the outdoor wood boiler.

e. Stack height of chimney

(1) The minimum height of any chimney must be at least 18 feet above ground.

(2) When an outdoor wood boiler is located within 150 feet of a structure, the stack shall be at least 2 feet higher than the roof peak of the structure.

f. Any outdoor wood boiler abandoned or discontinued for one (1) year shall not be reestablished and must be immediately removed by owner.

g. Existing outdoor wood boilers on the effective date of this Law are not to be extended or enlarged.

h. Any outdoor wood boiler damaged by natural causes by more than 75% of its value shall not be repaired or rebuilt.

5. Suspension of Permit

A permit issued pursuant to this Law may be suspended as the Town Code Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Germantown if any of the following conditions occur:

- a. Violation cited by the New York State Department of Environmental Conservation.
- b. Malodorous air contaminants from the outdoor wood boiler are detectable outside the property of the person on whose land the outdoor wood boiler is located.
- c. The emissions from the outdoor wood boiler interfere with the reasonable enjoyment of life or property; cause damage to vegetation or property; and/or are or may be harmful to human or animal health.
- d. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this Law subject to penalties provided in Subsection 7 below.

6. Enforcement/Revocation of Permit

Failure to comply with any of the provisions of this Section S shall be a violation of this Law.

7. Effect of Other Regulations

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, or any other Federal, State, regional or local agency. Outdoor boilers and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood boiler shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, State and Federal codes, laws, rules and regulations. In case of a conflict between any provision of this Law and any applicable Federal, State or local Laws, laws, codes, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

T. Sawmills

1. The minimum lot size shall be 10 acres.
2. All elements of the sawmill, including storage area for logs and sawn lumber, bark, sawdust and other waste materials; and buildings and equipment areas shall be screened by existing landform and/or vegetation from the direct view of abutting residential properties and public roadways.

3. All buildings or other structures and all equipment or storage areas associated with the sawmill shall be located not less than 100 feet from any property line, nor less than 300 feet from any neighboring dwelling.
4. No storage area for logs, sawn lumber or waste materials shall be located within 100 feet of any stream, other water body or well providing a source of potable water.

U. Self-Storage Unit Facility

1. No self-service storage structures shall be located within 300 feet from the front lot line in any residentially zoned or developed property.
2. The maximum height of any building(s) is 20 feet or one story.
3. Circulation drives and aisles shall be a minimum of 24 feet in width and all corners shall provide a 50-foot turning radius to provide adequate access for fire-fighting vehicles.
4. No outdoor storage is permitted.
5. No business activity other than the rental of storage units shall be conducted on the premises.
6. Landscaping shall meet the perimeter landscaping requirements of Article VII, Section C, and must be provided along all lot lines, in a manner which will largely obscure the use and its operation when viewed from the ground level.
7. All lighting shall be directed toward and illuminate the site only and shall not intrude on any residentially zoned or developed property.

V. Storage of Fuel or other Liquids in Tanks

1. There shall be no storage of crude oil or any of its volatile products or other highly flammable liquids in aboveground tanks except in accordance with current NYS regulations.
2. Activities or storage involving flammable and/or explosive materials shall have safety devices and adequate fire-fighting and fire-suppression equipment and devices. The recommendations of the local fire chief having jurisdiction shall also be considered prior to approval of such a use.
3. All such uses shall be located on sites large enough to contain the impact of any potential accident that might result from their existence without damage to adjacent properties.

W. Swimming Pools

1. Private swimming pools may be erected in all districts provided they conform to all New York State laws and regulations and the following provisions:
 - a. Pools may be installed only as accessory to a residence for the private use of the owners or occupants of such residence and their families and guests, or as an accessory use to a primary lodging use.
 - b. Subject to approval. No work shall be commenced on the construction or installation of any swimming pool, including any excavation or removal of sand, gravel, topsoil or other materials, until and unless the plans and specifications have been approved and a building permit has been issued by the Code Enforcement Officer.
 - c. Pools and pool equipment shall be installed in compliance with the setbacks of this Law.
 - d. Pools shall be completely surrounded by a substantial fence. Such fence shall be in conformity with all New York State and local rules and regulations.
 - e. Pools may not be located between the building line and the street.

X. Truck Terminal, Truck Transfer Station

1. The lot area shall be not less than 20,000 square feet and have a minimum frontage along a State or County highway of at least 150 feet.
2. No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
3. All entrance and exit driveways shall be approved by the County Highway Engineer of the District Engineer of the State Department of transportation depending on whose jurisdiction the highway is located in.
4. All fuel pumps, outside lubricating and other devices shall be located at least 25 feet from any building, structure or street line.
5. No repair work shall be performed outdoors.
6. All fuel, oil, gasoline, or similar substances shall be stored underground and at least 10 feet from any and all lot lines, and installed and maintained in accordance with the standards of the New York State.
7. All dismantled automobiles, trucks, tractors, trailers and similar equipment, and parts and accessories thereof shall be stored within a building.

8. All parking areas for operating vehicles shall be paved, curbed and drained in accordance with municipal specifications. Such areas shall be at least 50 feet from an AR, RR or HR District boundary and at least 20 feet from any property line. No vehicle shall park or stand outside such paved parking area.
9. Screening shall include planting of evergreen bushes or trees in addition to a fence so that truck motor noise and the sound of overnight operation of refrigeration units will tend to be muffled.

Y. Tractor Trailer, tandem-axle, tri-axle or any other vehicle with a gross vehicle weight of 18,000 pounds or more, parking of on a residential lot.

1. The parking of large trucks such as tractor trailer, tandem-axle, tri-axle or any other vehicle with a gross vehicle weight of 18,000 pounds or more is only allowed in a residential district with a Special Use Permit.
2. The parking of vehicles and equipment used for agricultural purposes are exempt from this requirement and are allowed in all district without a Special Use Permit.
3. The storage of hazardous chemicals, poisonous gases, flammable liquids or explosive gases is prohibited.
4. The Planning Board shall consider the following when acting on a Special Use Permit application for this use:
 - a. Location of parking area for the vehicle on the lot
 - b. Provision of appropriate screening of vehicle from adjacent residential lots
 - c. Unreasonable noise
 - d. Potential damage to public roadways

Z. Wind Energy System, Small

1. Purpose

The purpose of this Section is to provide a regulatory scheme for the construction and operation of Small Wind Energy Systems in the Town of Germantown, subject to reasonable restrictions, which will preserve the public health and safety of the Town's residents.

2. Definitions

ON GRID SYSTEM: The turbine and load it serves (i.e. house) are connected to the transmission grid. The house receives its electricity from the turbine when wind is available and from the grid when backup is needed.

OFF GRID SYSTEM: The turbine and load it serves are not connected to a larger electrical network. These usually have some form of energy storage device (i.e. batteries) to supply reserve power when energy demand exceeds wind supply.

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, or similar technology, which has a rated capacity of not more than 100 kilowatts and which is intended to primarily reduce on-site consumption of utility power.

TOWER HEIGHT: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

3. Applicability

Prior to the issuance of a building permit, the Code Enforcement Officer shall refer the applicant to the Planning Board for completion of a Special Use Permit and for all towers over 60 feet in height, Site Plan approval shall be required. Such permits and approvals shall only be approved if the following standards are met.

4. Submission Requirements

The following elements shall be included in the submission:

- a. The applicant and landowner's name and contact information.
- b. The tax map numbers, existing use and acreage of the site parcel.
- c. Standard drawings of the wind turbine structure, including the tower, base and footings, drawings of access roads, and including an engineering analysis and certification of the tower, showing compliance with this Law.
- d. Data pertaining to the tower's safety and stability, including safety results from test facilities.
- e. Proposal for landscaping and screening. Appropriate landscaping is required to keep the site in a neat and orderly fashion. Appropriate screening is also required to screen accessory structures from adjacent residences.

- f. A Short Environmental Assessment Form (“EAF”) (Appendix C to 6 NYCRR 617.20) prepared in accordance with the State Environmental Quality Review Act.

5. Tower Height

For property sizes between 0.5 acre and one (1) acre the tower height shall be limited to 80 feet. For property sizes of one (1) acre or more, there is no limitation on tower height, except as constrained by requirements of this Article and other regulatory agencies.

6. Setback

Setbacks shall be a minimum of 50 feet from the center of the road plus the height of the unit (tower and rotor). Side and rear setbacks shall be a minimum of 10 feet plus the height of the unit (tower and rotor).

7. Sound

Small wind energy systems shall not exceed 55 dBA, as measured at the closest neighboring dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms. When determining the level of sound, measurements shall be averaged over a 24 hour period of time.

8. Safety

Wind turbine towers shall not be climbable up to 15 feet above ground level.

9. Compliance with Regulations

- a. Small wind turbines must have been approved under any other small wind certification program recognized by the American Wind Energy Association.
- b. Compliance with Uniform Building Code: Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.
- c. Compliance with Federal Aviation Administration (FAA) Regulations: Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- d. Compliance with National Electrical Code: Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of

installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

10. Utility Notification

No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

11. Multiple Turbines

In the event of multiple small wind turbines, or the resulting aggregate installation, must meet the sound, setback and safety requirements as exist for other structures.

12. Removal

If the small wind energy system is inoperable after 12 months, the owner must remove the tower within 60 days.

AA. Wireless Communications Towers

1. Application of Regulations

- a. No wireless communications tower shall hereafter be erected, moved, reconstructed, changed or altered without conforming to these regulations. No existing structure shall be modified to serve as a wireless communications tower unless conforming to these regulations.
- b. Wireless communications towers are permitted in accordance with Schedule A, Permitted Uses.
- c. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications facility, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.
- d. The Planning Board may waive any or all of the requirements for approval for applicants proposing minor changes to existing facilities and for applicants proposing the use of camouflage for a wireless communications tower when the Board finds that such camouflage significantly reduces the visual impact to the surrounding area. However, the Board may not waive the requirement that a public hearing be held on the application.

2. General Criteria

No special use permit relating to a wireless communications facility shall be authorized by the Planning Board unless it finds that such facility:

- a. Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities;
- b. Conforms to all applicable regulations promulgated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and other federal agencies;
- c. Will be designed and constructed in a manner which minimizes visual impact to the extent practical; and
- d. Is the most appropriate site among those available within the technically feasible area for the location of a telecommunication facility.

3. Submission Requirements

- a. Site Plan. An applicant shall be required to submit a Site Plan as described in Article XIII, Site Plan review. The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The Site Plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.
- b. Additionally, the Planning Board shall require that the Site Plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this Law with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
- c. Documentation from an expert qualified in the field of wireless communications and radio frequency engineering showing that the tower and/or facility is needed to provide adequate coverage to an area of the Town that currently has inadequate coverage, including a sealed, graphical depiction of the inadequate coverage area.
- d. A copy of the lease agreement.
- e. A copy of the applicant's FCC operating license.

4. Co-Location

- a. The shared use of existing wireless communications towers or other structures shall be preferred to the construction of new facilities. Any Special Use Permit application shall include proof that reasonable efforts have been made to co-locate within an existing wireless communications facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site. The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on existing wireless communications facilities due to one or more of the following reasons:
 - (1) The planned equipment would exceed the structural capacity of existing and approved wireless communications facilities or other structures, considering existing and planned use for those facilities;
 - (2) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
 - (3) Existing or approved wireless communications facilities or other structures do not have space on which the proposed equipment can be placed so it can function effectively and reasonably;
 - (4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures; and
 - (5) The property owner or owner of the of the existing wireless communications facility or other structure refuses to allow such co-location or requests an unreasonably high fee compared to comparable fees for such co-location compared to current industry rates.
 - (6) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

5. Fall Zones

Wireless communications facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other wireless communications facilities.

6. Setbacks

Wireless communications facilities shall comply with all existing setbacks within the affected zoning district. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities. Additional setbacks may be required by the Planning Board to contain on-site substantially all icefall or debris from tower failure and/or to preserve the privacy of adjoining residential and public property.

7. Lighting

Towers shall not be artificially lighted except to assure human safety as required by the FAA. Notwithstanding, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety. The Board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location. The applicant must provide both standard and alternative lighting and marking plans for the Board's review.

8. Visibility and Aesthetics

- a. The maximum height for wireless communications towers permitted under this article, including any antennas or other devices extending above the tower, measured from the ground surface shall be 150 feet.
- b. Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend with the natural surroundings below the surrounding treeline unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory facilities shall maximize use of building materials, colors, and textures that are designed to blend with the natural surroundings.
- c. Structures offering slender silhouettes (i.e. monopoles or guyed towers) may be preferable to freestanding lattice structures except where such freestanding structures offer capacity for future shared use. The Planning Board may consider the type of structure being proposed and how it relates to the surrounding area.
- d. The applicant must examine the feasibility of designing a proposed wireless communications tower to accommodate future demand for additional facilities.

9. Vegetation and Screening

- a. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding 4 inches in diameter (measured at a height of 4

feet off the ground) shall take place prior to approval of the special permit use. Clear-cutting of all trees in a single contiguous area shall be prohibited.

- b. The Planning Board may require appropriate vegetative buffering around the fences of the tower base area, accessory facilities and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.

10. Signage

The use of any portion of a wireless communications facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited. The Planning Board may require the installation of signage with safety information.

11. Security

- a. Towers, anchor points around guyed towers, and accessory facilities shall each be surrounded by fencing not less than 6 feet in height.
- b. There shall be no permanent climbing pegs within 15 feet of the ground.
- c. Motion-activated or staff-activated security lighting around the base of a tower or accessory facility may be provided if such lighting does not project off the site.
- d. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such a gate must not protrude into the public thoroughfare.

12. Abandonment and Removal

At the time of the submission of the application for a wireless communications facility the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a wireless communications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils. The Planning Board is hereby authorized to require the applicant, as a condition of approval, to post an escrow deposit with the Town in an amount sufficient to ensure compliance with this section.

ARTICLE VII: ADDITIONAL DEVELOPMENT STANDARDS

A. Building Design Standards

1. Purpose

The purpose of this section is to ensure that new nonresidential development within the Town of Germantown reflects and protects the architecture and character of the Town's hamlets and rural landscapes.

2. Applicability

The building design standards apply to all new construction, additions and alterations except that single-family dwellings, two-family dwellings, and agricultural uses shall be exempt.

3. Definitions

ADDITION: New construction added to an existing building or structure.

ALTERATION: Construction or other modification that changes one or more of the exterior features of a structure or building, including, but not limited to, the erection, construction, reconstruction, addition, sand blasting, water blasting, chemical cleaning or removal of any structure, but not including changes to the color of exterior paint.

CORNICE: The projection at the top of a wall or the top course or molding of a wall when it serves as a crowning member.

FAÇADE: The exterior walls of a building facing a frontage line.

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

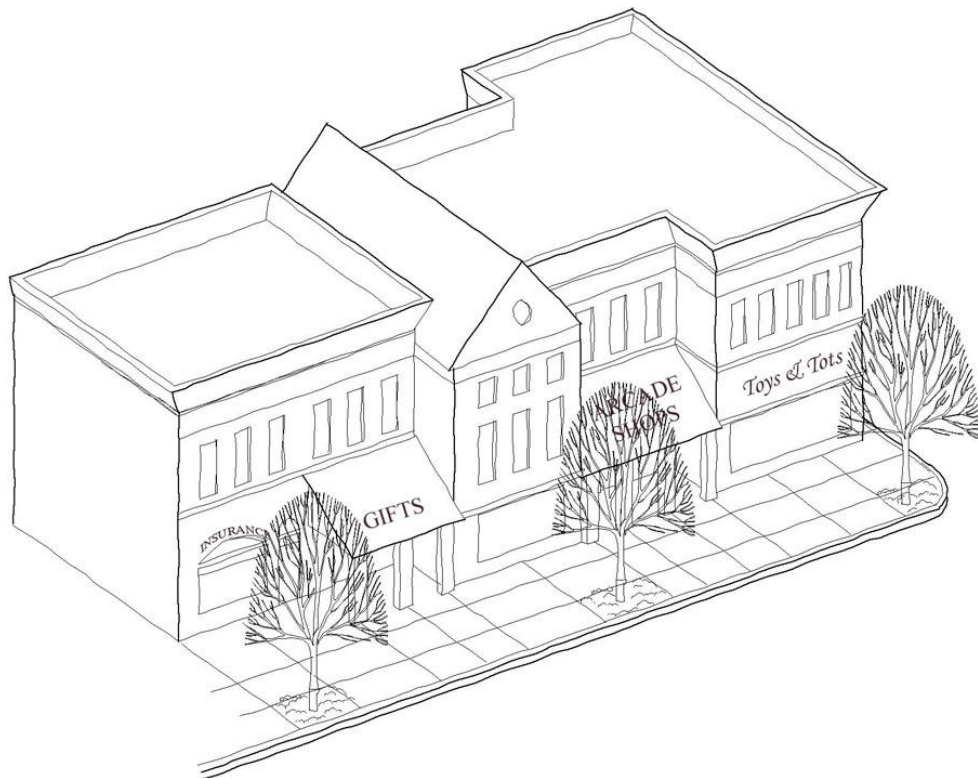
PLINTH: A projecting base of an external wall, or the base of courses of a building collectively, if so treated as to give the appearance of a platform.

PORTICO: A covered walk or porch that is supported by columns or pillars; also known as colonnade.

4. General Building Design Standards

- a. New development, additions, and alterations shall generally employ building types and architectural detailing that are compatible with the architecture of the existing hamlets and general rural community character in their massing and external treatment.

- b. Two story structures are preferred, particularly in the HMU District.
- c. New infill development shall be similar in height and size or articulated and subdivided into massing that is more or less proportional to adjacent structures and maintains the existing architectural rhythm.
- d. For larger structures, the length of any façade should generally not exceed 50 feet maximum (horizontal dimension). Shop fronts may be broken down even further; 30 feet or less is preferred. Facades may be broken up through the use of bay windows, porches, porticos, building extensions, towers, recessed doorways, and other architectural treatments.



Example of a façade break-up through architectural treatments.

5. Building Materials

- a. For any new building, addition or alternation, the use of natural materials such as stone, brick, wood siding, shingles, slate, etc. are preferred.
- b. Anodized or galvanized metal is prohibited except when used for roofs, agricultural structures, or additions or alterations to existing structures with anodized or galvanized metal exteriors.

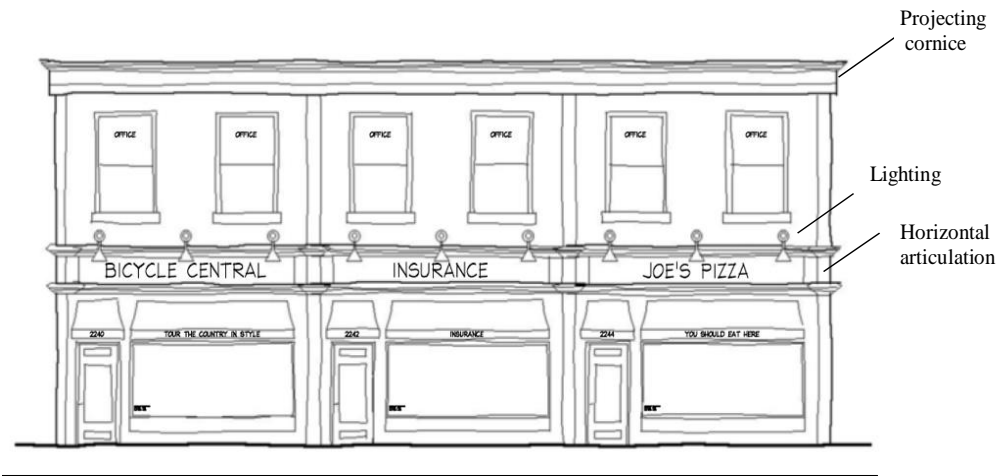
- c. Muted and traditional colors are generally preferred, with contrasting textures and tones used to add interest. Building colors should emphasize earth tones and colors common to traditional/natural building materials. Strong color may be used sparingly as an accent.

6. Building Orientation and Entrances

- a. Buildings shall be parallel to the street frontage property line.
- b. The front façade of buildings shall be oriented towards the public right-of-way with an everyday public entrance in this front façade.
- c. All primary building entrances shall be accentuated. Accents may include recessed or protruding entrances or the use of canopies, porticos, or overhangs.
- d. Where rear parking is provided, the provision of a secondary rear entrance is encouraged. The design of the rear entrance and façade should not compete with the main entrance but be appropriately signed and marked to indicate a rear entrance.

7. Walls

- a. Blank facades with no windows or doorways shall not be permitted along any exterior wall facing a street, parking area, or walking area or other public right-of-way.
- b. Walls or portions of walls, where windows are not provided, shall have architectural treatments that are similar to the front façade including materials, colors, and details. Examples of architectural treatments include but are not limited to: masonry (but not flat concrete block), concrete or masonry plinth at the base of the wall, belt courses of a different texture or color, projecting cornices, projecting canopies, decorative tilework, medallions, translucent glass, vertical/horizontal articulation, lighting fixtures.

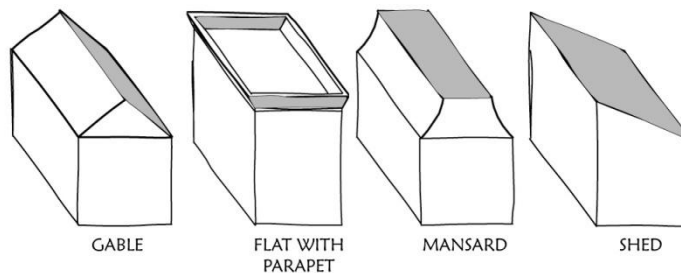


8. Windows

- a. Windows should reflect any discernable pattern of window openings that is established among adjacent structures in terms of style, configuration and size. When necessary repair or replacement of windows is required, replacement windows shall match the original window in style, configurations and size.
- b. Smoked, reflective, or black glass in windows is prohibited.

9. Roofs

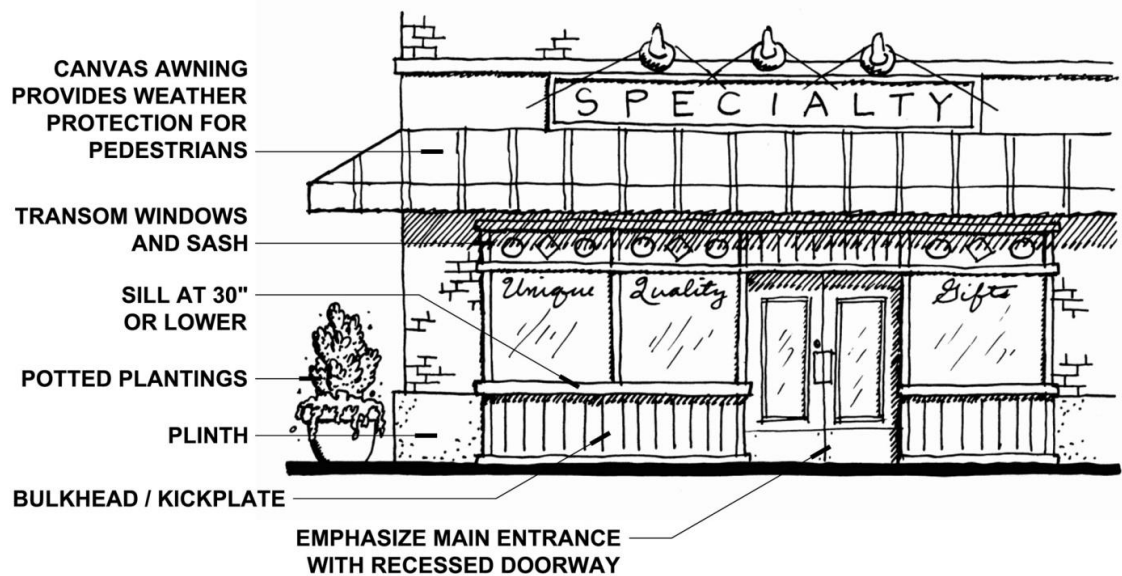
- a. Roofs shall be proportional to the rest of the building and be in keeping with the character of adjacent buildings. Where flat roofs are used, they shall have a parapet (see diagram below). False mansard-style roofs shall not be used.
- b. Rooftop mechanical apparatus, except solar arrays and green roof systems, shall be hidden or screened using a parapet or cornice.



Examples of roof types.

10. Storefronts

- a. Storefront design should be in keeping with the overall building design. Storefront elements such as windows, entrances, and signage provide clarity and lend interest to facades. It is important that the distinction between individual storefronts, the entire building facade, and adjacent properties be maintained by architectural treatment and materials selection as illustrated in section 4 (d) above.
- b. Storefront windows and doors should be consistent in height and design to create a cohesive appearance.
- c. Street level windowsills should be placed no higher than 30 inches above finished grade at the building line.
- d. Clear, colorless glass without tinting is preferred for all display windows. Stained glass, colored or translucent glass should be used only for design accents. Plexiglas or other replacement materials instead of glass shall not be used.

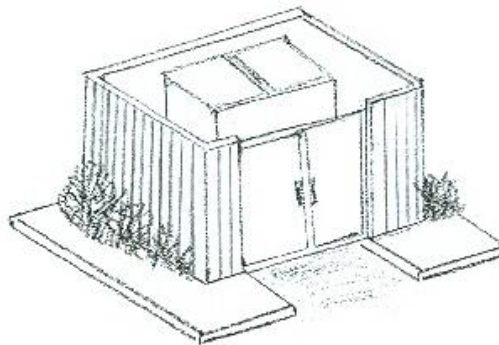


Examples of preferred storefront elements.

11. Accessory Refuse Storage Areas

The storage of refuse shall be provided inside the principal building(s) or within an outdoor area enclosed by either walls or opaque fencing. Any refuse area outside of the building shall be sited in the following manner:

- a. Refuse areas including all dumpsters and garbage cans shall be located behind the principal building, at least 10 feet from the property line.
- b. Refuse areas shall be entirely screened by a fence or enclosure of at least 6 feet high on all 4 sides. A minimum of 25% of the enclosure shall be screened by landscaping.
- c. Refuse areas shall be designed to be architecturally compatible with the principal building including the doorway or entrance of the enclosure. The enclosure of the refuse area shall be brick, stockade, wood board fence or materials imitating brick or wood. Chain link fences shall only be permitted if used with either vinyl slats or a heavily landscaped screening. Enclosures must remain locked and closed.



Example of an enclosed refuse area.

B. Fences, Hedges and Walls

The following standards shall apply to fences, walls and hedges for all uses in all districts except agriculture, which shall be exempt.

1. Location

- a. Fences, freestanding walls and hedges and all supporting structures must be entirely on the property of the party erecting the fence.
- b. Fences and freestanding walls shall be setback at least 10 feet from the right-of-way in the front yard. Hedges greater than 3 feet in height shall be setback 10 feet from the right of way in the front yard.
- c. Fences and freestanding walls shall not be located within 30 feet of a street intersection. Hedges greater than 3 feet in height shall not be located within 30 feet of a street intersection.

3. Height

- a. No fence or freestanding wall shall exceed 4 feet in height in any front yard.
- b. No fence or freestanding wall shall exceed 6 feet in height in any side or rear yard.
- c. A maximum of 10 feet in height shall be allowed to enclose a private or public tennis court, basketball, or sports courts provided that the fence is not more than 60% percent opaque, and provided the fence is set back at least 10 feet from the property line.

4. Materials and construction

- a. All fences and freestanding walls shall be so installed so that the finished side shall face outward; all bracing shall be on the inside of the fence.
- b. Barbed wire, chicken wire, pallets, plywood and construction fencing shall not be used as a fencing material or as any part of a fence visible from the public right-of-way except when used for agricultural uses.
- c. Retaining walls visible from the public right-of-way should be faced with masonry or other decorative screening, textures, design, or landscaping to minimize the blank appearance of walls and ensure compatibility with existing structures.
- d. All fences, walls and hedges shall be maintained and, when necessary, repaired or replaced.

C. Landscaping and Screening

1. Purpose

The purpose of these provisions is to ensure that new site development is integrated as much as possible with the adjacent landscape and/or rural character of the Town of Germantown; to reduce the effects of noise, glare, dust, and heat; and, to prevent soil erosion, reduce stormwater runoff, and buffer and screen adjacent properties. The preservation and/or transplantation of existing trees and vegetation is encouraged where possible.

2. Applicability

The Landscaping and Screening standards described in this section apply to the following development activities:

- a. All new construction or change of use except single- and two-family dwellings and agricultural uses.
- b. Additions and expansions of 1,500 square feet or greater of gross floor area to existing uses other than those described in 2.a. above.
- c. All retaining walls 6 feet in height or greater measured from finished grade of the lowest side of the wall, shall require a set of stamped plans and specifications by a licensed engineer or landscape architect.
- d. The creation of more than 3 parking spaces.

3. General Requirements

- a. A landscaping plan shall be prepared as part of Site Plan.
- b. The plan shall be prepared and stamped by a licensed landscape architect, engineer or architect unless waived by the Planning Board.
- d. Landscaping required pursuant to an approved Site Plan shall be installed or funds deposited in, or a certificate of deposit issued by, a bank or trust company located and authorized to do business in this State, under an agreement approved by the Town Attorney prior to temporary occupancy, and installed before the issuance of final Certificate of Occupancy.
- e. The preservation of existing natural vegetation or stands of trees (particularly native species) may be used toward meeting all or part of the landscaping requirements and is encouraged.
- f. Landscaping shall not interfere with overhead power lines.

4. Site Plan Requirements

The following elements shall be included on the landscape plan as part of the Site Plan application presented for Site Plan Review:

- a. Existing Vegetation: graphic depiction of existing vegetation “TO REMAIN” and “TO BE REMOVED.” Distinctive (e.g. native) species and colonies of vegetation shall be identified.

(1) Species and caliper size for all existing trees 6” diameter at breast height (dbh) and greater to be removed shall be provided in Table form.

- b. Proposed Plantings: graphic illustration of the mature tree canopy size, and diameter/spread of shrubs and shrub/herbaceous plant massings.

(1) A Plant Schedule shall list the common name, botanical name, size, quantity, and root condition of all proposed plant material.

5. Minimum Planting Requirements

- a. Landscape elements including, but not limited to, trees, shrubs, herbaceous plantings, walls, paving shall be planned to create pedestrian-scale spaces.
- b. Native plant material and acceptable substitutes should be emphasized to promote establishment, drought tolerance and ease of maintenance.
- c. Deciduous shade trees should be at least 2.5 inches in caliper at the time of planting. Shrubs should be at least 18 inches in height at the time of planting.
- d. Landscape buffer/screening shall be installed along perimeters where adjacent uses may be incompatible, e.g. between commercial and residential uses. The plant choice, required mature height and width, and placement of such buffers and screening shall be based upon the site topography, distance from buildings and uses, and other existing conditions and proposed improvements. However, the planted buffer shall be at least 6 feet in height at the time of planting, completely screen the view into adjacent properties and mitigate reasonable noise.
- e. Grass and sod plantings should use a turf grass developed for establishment in local conditions.
- f. Curbing and paving should be located no closer than the drip line of existing trees to remain unless root bridges, structural soil, or other measures are employed.
- g. Mulch shall be natural, organic material.

6. Street Trees

- a. Street trees should be provided along all existing and proposed streets, and major pedestrian routes.
- b. The location of street trees shall be determined by site conditions including the need for highway maintenance.
- c. Street trees should be planted at a recommended minimum of one (1) tree per 35 linear feet of frontage, excluding driveway openings, as conditions dictate.

7. Parking Lot Landscaping

- a. Landscape areas should cover a minimum of 15% of the total paved area of the parking lot.
- b. Landscape islands shall be installed at both ends of each unbroken row of parking with 12 or more adjacent parking spaces.
- c. A minimum of 2 deciduous shade trees should be provided for every 12 spaces of parking.
- d. Landscape islands shall be provided with adequate soil volume to promote the healthy growth of deciduous shade trees. Adequate soil volume will vary according to the selected tree species; in no instance shall the surface area be less than 25 square feet. Soils with high water tables may require sub-surface drainage.
- e. Planted buffers should be provided between parking areas and adjacent lots and streets.

8. Maintenance

- a. Any plant material used in the landscaping project shall be maintained in a healthy growing condition. The property owner bears the responsibility for maintenance of required landscaping. The Town of Germantown has the authority to order that dying or dead landscaping be replaced by the current landowner or developer. In addition, the Town will work with a property owner in establishing a realistic replanting plan when landscaping required by this Article is lost due to situations beyond the control of the property owner or other related circumstances.
- b. If requested, the applicant shall submit a maintenance agreement describing methods of compliance with the requirements of this Article.
- c. Action upon non-compliance: failure, neglect or refusal of owner to perform the required maintenance action may be taken in accordance with the enforcement provisions of Article XV of this Law.

D. Outdoor Lighting

1. Purpose

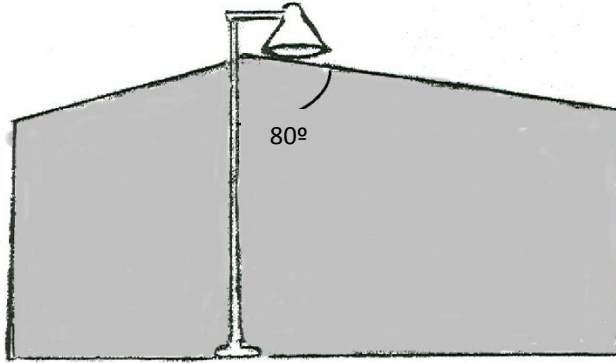
The purpose of this section is to require and set minimum standards for outdoor lighting that are appropriate for safety, security, and visibility for pedestrians and motorists, while minimizing glare and light pollution.

2. Applicability

The lighting standards of this section shall apply to all properties in the Town of Germantown.

3. Definitions

FULL CUTOFF OR FULL SHIELDED TYPE FIXTURE: An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest light-emitting part of the fixture.



Example of full cut-off lighting fixture.

GLARE: Direct light that causes annoyance, discomfort or loss in visual performance and visibility.

LIGHT FIXTURE: The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

LIGHT POLLUTION: Artificial light which causes a detrimental effect on the environment, enjoyment of the night sky, or causes undesirable glare or unnecessary illumination of adjacent properties.

4. General Requirements

- a. The number of light fixtures and the intensity of lighting shall be appropriate to illuminate the location for safety, without glare to adjoining properties.
- b. Full-cutoff fixtures shall be required to reduce glare.
- c. Lighting fixtures shall be aimed and shielded in a manner that shall not direct illumination on adjacent residential properties.

- d. Installation of supply wires for lighting shall be placed underground.
- e. Automobile-oriented uses such as gasoline stations, service stations and drive-through facilities shall install recessed ceiling fixtures in any canopy.
- f. Signs that are wholly illuminated with an exposed incandescent lamp not exceeding 25 watts shall not require shielding.
- g. Maximum Height. The total height of exterior lighting fixtures, including the base, shall be a maximum of 20 feet and 14 feet for pedestrian walkways and parking lots adjacent to residential uses.

5. Design

- a. Exterior lighting shall enhance the building design and adjoining landscape.
- b. Decorative style lighting is preferred.

6. Prohibited Lighting

- a. Blinking and flashing lights.

7. Exemptions

- a. Holiday lighting
- b. Emergency lighting or temporary construction lighting, as may be required by a public agency.



Decorative lighting is preferred.

E. Off-Street Parking and Loading

1. Applicability

- a. In all districts, the minimum off-street parking and loading requirements of this section shall be met for any newly constructed building, building expansion, or change in use.
- b. Structures and land uses in existence or for which building permits have been approved by the effective date of this Law shall not be subject to the parking or loading space requirements of this section. However, any existing parking and loading facilities for such uses shall not be reduced unless they exceed the requirements of this Law, in which case they shall not be reduced below the requirements of this section.

2. Required Number of Off-Street Parking Spaces

- a. The minimum number of off-street parking spaces required shall be calculated using the standards in this subsection and Schedule C below.
 - (1) In churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facility shall be counted as one seat.
 - (2) For uses not expressly listed in this Section, parking spaces shall be provided on the same basis as required for the most similar listed use as determined by the Planning Board.
 - (3) When determination of the number of required parking spaces results in the requirement of a fractional space, any fraction up to and including $\frac{1}{2}$ shall be disregarded and fractions over $\frac{1}{2}$ shall require one (1) parking space.
- b. Commercial uses located directly adjacent to Main Street in the Hamlet Mixed Use (HMU) District are exempt from the parking space requirements of Schedule C.

Schedule C: Minimum Parking Space Requirements	
SF = Square Feet GFA= Gross Floor Area	
Use	Number of Required Spaces
Residential Uses	
Multi-family dwelling	1.5 per dwelling unit
Senior/retirement housing complex	1 per dwelling unit, plus an additional 5% of the total resident's spaces shall be provide for visitors and others
Residential care Facility	1 for every 3 beds, plus one for every 2 employees during maximum shift
Townhouses	1 per single bedroom dwelling unit; 2 per two bedroom dwelling unit or greater
Community Uses	
Child day care	1 per employee plus one per 10 attendees
Community center	1 per 400 SF of GFA
Library	1 per 1,000 SF of GFA
Membership club	1 per 5 members or 1 per 4 seats in largest assembly area, whichever is greater
Municipal facility	1 per employee on the maximum shift, plus 1 space for each 200 SF of GFA
Museum or cultural facility	1 per 1,000 SF of GFA
Religious institution	1 per 6 seats
School	1 for each staff member, plus 1 space per 5 seats in the largest assembly facility
College, vocational, business school	.75 space for each student, plus 1 for each staff member
Commercial Uses	
Agriculture, accessory retail establishments	1 per 250 SF of GFA, plus 1 for every 4 employees
Assembly and meeting facility	1 per 4 seats
Bank	1 per 250 SF of GFA
Bowling alley	2 per lane
Funeral home	1 per 4 seats at maximum capacity
Gasoline station	5 parking spaces
Golf, miniature/driving range	1 per tee
Health and fitness club	1 per 300 SF of GFA
Home occupation	1 for each employee and if the occupation requires any customers and/or clients to visit the premises, at least 2 additional spaces shall be provided.
Hotel, inn, motel, bed and breakfast	1 for each unit

Schedule C: Minimum Parking Space Requirements	
SF = Square Feet	GFA= Gross Floor Area
Use	Number of Required Spaces
Motor vehicle repair	3 per bay
Motor vehicle sales/rental	10 or 1 per 5,000 SF of outdoor display or storage, plus 1 per employee, whichever is greater
Professional and general office, (including medical clinic)	1 per 250 SF of GFA, plus 1 space for every 4 employees
Restaurant and bar	1 for every 4 seats, plus 1 space for every 2 employees
Retail store and service establishment	1 for every 250 SF of GFA, plus 1 space for every 4 employees
Veterinarian, office, clinic, hospital	1 per 350 SF of GFA
Industrial Uses	
Light manufacturing and industry	1 for each 2 employees based on peak employment hours and space to accommodate all trucks and other vehicles used in connection with the use
Research and development facility and Laboratory	1 per 300 SF of GFA
Wholesale, warehousing, distribution and storage	1 for each 2 employees based on peak employment hours and space to accommodate all trucks and other vehicles used in connection with business

c. Accessible Parking Space Requirements

The number of handicapped accessible parking spaces shall be determined based on the total number of parking spaces as set forth in the most recent edition of the New York State Uniform Fire Prevention and Building Code.

d. Maximum Parking Standards

The maximum number of off-street parking spaces for any building in the HMU, HC and BD Districts shall not exceed more than 120% of the number of spaces required in Schedule C above.

e. Shared Parking

(1) Shared parking of areas with multiple uses is encouraged. In the case of a combination of uses on a single parcel, the requirement for off-street parking spaces shall be the sum of the requirements for the various individual uses, unless it can be established by the applicant to the satisfaction of the Planning Board that staggered hours of use would permit reduction of this requirement.

- (2) An agreement establishing joint use of a parking area, approved by the Planning Board, shall be recorded with the Code Enforcement Officer. Such agreements shall run with the land for all properties with joint use of parking areas and require Planning Board approval for any change or termination.

3. Design Standards for Off-Street Parking Spaces

- a. The following minimum standards shall apply to the width and length of required parking spaces.

- (1) Standard Perpendicular Parking Spaces

- (a) Length: 18 feet
- (b) Width: 9 feet

- (2) Compact Parking Spaces

- (a) Length: 16 feet
- (b) Width: 8 feet

- (3) Accessible Parking Spaces

- (a) Length: 18 feet
- (b) Width: 13 feet

- (4) Parallel parking spaces shall add 4 feet in length.

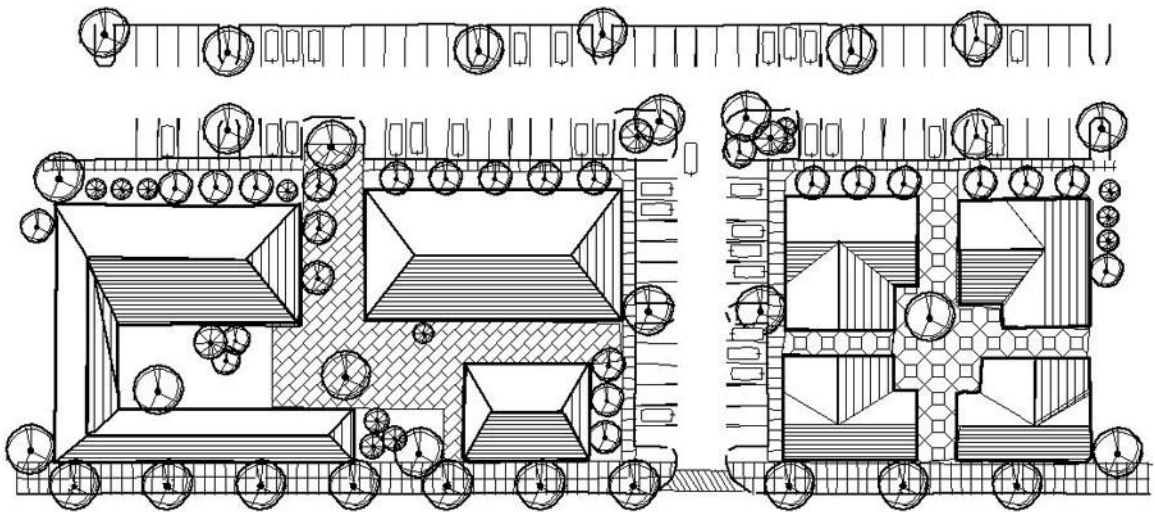
- b. Parking aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

Parking Angle (degrees)	Aisle Width (feet)	
	One-way traffic	Two-way traffic
0	13	19
30	11	20
45	13	21
60	18	23
90	22	24

4. Parking Location and Design

- a. For all new building construction, off-street parking shall be located to the side or rear of the principal building; parking to the rear is preferred. Corner lots shall only provide parking to the rear of the principal building.
- b. Parking shall be set back 10 feet from the legal right-of-way.

- c. Where warranted by site topography, barriers or other safety devices shall be incorporated into the design of the parking area.
- d. Where appropriate, the Planning Board may require paved connections between abutting parking areas in different ownerships to facilitate traffic flow.
- e. Off-street surface parking shall not extend more than 70 feet in width along any pedestrian street frontage without breaking up the parking area into smaller lots through the placement of buildings, the use of landscaping, community gathering spaces, or other treatments.
- f. Parking lots shall meet the landscaping and buffering standards of Article VII, Section C, Landscaping and Screening.
- g. Pedestrian access to and through a parking lot shall be clearly defined with a pedestrian walkway and sufficient lighting.



Parking lots shall be located to the side or rear of the building – parking to the rear is preferred.

5. Off-Street Loading

Off-street loading facilities shall be provided for each commercial or industrial use and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street

or highway. Any required off-street loading berth shall have a clear area not less than 12 feet in width by 25 feet in length.

F. Pedestrian Design Standards.

1. Sidewalks are required along all street frontages in the HMU and HC Districts to when their installation would connect existing sidewalks on abutting parcels and other nearby pedestrian destinations.
2. The sidewalk pattern shall continue across driveways.

G. Signage

1. Purpose

The purpose of this section is to provide standards to safeguard life, health, property and public welfare by controlling the number, location, construction, installation, illumination and maintenance of all signs and sign structures in the Town of Germantown. It is the further purpose of this section to control the quality and quantity of signs so as to enhance the identification of the various business and professional enterprises in the Town and improve the visual quality of the community.

2. Applicability and Procedures

- a. Except as otherwise provided in this Law, no sign or other advertising device shall be erected, constructed, displayed, moved, reconstructed, extended, enlarged or altered except in conformity with this Article and, where applicable, without first obtaining a Zoning Permit from the Code Enforcement Officer in accordance with the following procedures and standards.
- b. Application for a Zoning Permit shall be made in writing to the Code Enforcement Officer. One application may include more than one (1) sign, provided that all signs contained in such application are to be erected at the same time on one (1) lot. Applications for new signs or proposed changes in existing signs shall include plans to scale detailing the dimensions and area of the sign(s), the location of the sign(s) on the building, structure or property where the sign(s) will be erected or attached, and a visual simulation or photo to scale illustrating colors, materials, lettering, artwork, and method of illumination, if any. A permit shall be required for any change in the size, shape, lighting, materials, or location of an existing sign.
- c. Each application for a Zoning Permit shall be accompanied by the fee set forth in the current fee schedule adopted by the Town Council. Such fee shall be based on all signs contained in such application.

3. Definitions

AWNING (CANOPY) SIGN: A sign painted on, printed on, or attached flat, against the surface of an awning made of canvas or fabric or similar material, which is affixed to a building and projects therefrom. Such signs may or may not be fixed or equipped with a mechanism for raising and holding an awning in a retracted position against the building. An awning sign shall only display the business name and graphic logo.

DIRECTIONAL SIGN: A sign conveying instructions regarding pedestrian and/or vehicular movement with respect to the premises on which it is located, such as the entrance and exit of a parking area.

FREESTANDING SIGN: A self-supporting sign standing alone on its own foundation.

ILLUMINATED SIGN: Any sign illuminated by artificial light, either from the interior or exterior of a sign, and includes reflective and phosphorescent light.

INTERNALLY LIT SIGN: Any sign deriving its illumination from an internal source, and shall include all plastic signs lighted from behind, as well as all neon signs, and all lighted awnings lighted in a way as to give the awning the appearance of being lighted.

MONUMENT SIGN: A freestanding sign attached to a brick, stone, or masonry wall or structure that forms a supporting base for the sign display.

OFF-PREMISE SIGN/BILLBOARD: A sign which is located on a parcel of land other than that parcel where the business, service or event advertised is located.

PORTABLE SIGN: A sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to, signs designed to be transported by means of wheels, or on its own trailer or otherwise. Examples of portable signs include, but are not limited to, sandwich boards, menu boards, attached to A-frames or T-frames, and balloons used as signs.

PROJECTING SIGN: A sign that projects more than 12 inches perpendicular to the buildings face.

ROOF SIGN: A sign erected upon or above a roof or parapet wall of a building, and which is wholly or partly supported by that building.

SIGN HEIGHT: The distance from the highest portion of the sign to the finished grade at the base of the sign. In the case of a sign located on an isolated mound, height shall be measured to the original grade.

VEHICULAR SIGN: Any vehicle and/or trailer to which a sign is affixed in such a manner that the carrying of the sign is no longer incidental to the vehicle's purpose but becomes the primary purpose of the vehicle.

WALL SIGN: A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall.

WINDOW SIGN: A sign mounted or painted on a window, or inside a structure that is intended to be seen through a window from the outside.

4. Exempt Signs

The following signs are exempt from the requirements of this Law. These signs may be erected and maintained without a permit or fee, provided that such signs comply with the general requirements of this Law.

- a. Providing consent of the property owner is obtained and that placement does not exceed 60 days and no later than 10 days after said election or event:
 - (1) Political posters, banners, and similar signs.
 - (2) Signs or other promotional devices relating to a special event, festival, or similar activity.
 - (3) Yard or garage sale signs.
- b. Holiday Decorations.
- c. Safety, directional, historical markers or other types of signs erected and maintained by a public agency.
- d. Signs advertising the sale, lease or rental of the premises upon which the sign is located, that shall not exceed 6 square feet in area, or a subdivision sign that shall not exceed 24 square feet in area. All such signs shall be set back 10 feet from a public right-of-way. Such signs shall not be illuminated.
- e. Signs denoting the name and address of the occupants of the premises, such signs shall not exceed 2 square feet in area.
- f. Temporary signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress, which signs

shall not exceed 12 square feet in area in nonresidential zoning districts and not exceeding 6 square feet in area in residential zoning districts and set back at least 10 feet from the public right-of-way. There shall be one (1) such sign per parcel. Such signs shall be removed after a period of one (1) year.

- g. Signs used for a roadside stand selling agricultural produce grown on the premises in season, providing that such sign shall not exceed 4 square feet in area and shall be set back at least 10 feet from the public right-of-way. One such sign shall be permitted.
 - h. Private-owner merchandise sale signs for garage sales and auction, not exceeding 4 square feet and one (1) in number for a period not exceeding 7 days in any one calendar year. One (1) such sign shall be permitted.
 - i. Portable signs, which shall not exceed 6 square feet.
 - j. Window signs, as long as they conform to the illumination requirements of this Article and do not cover more than 20% of the glass area or 6 square feet of the pane to which the sign is affixed or displayed.
 - k. Gasoline station signs attached on gasoline pumps, displaying the price of fuel not exceeding 2 square feet; however, the total size of price, logo and any other signage on a pump shall not exceed a combined total of 3 square feet.
5. Prohibited Signs

The following signs are prohibited in the Town of Germantown:

- a. Signs with any mirror or mirror-like surface, nor any day glowing or other fluorescent paint or pigment.
- b. Flashing or moving signs, except time and temperature information.
- c. Vehicular signs.
- d. Off-premise signs or billboards except the following
 - (1) Town established special public information centers where in approved directional signs for businesses may be located.
 - (2) Business identification signs located on recreational ball field fencing.
- e. Signs that detract from or obstruct public view of a historic building or structures.

- f. Permanent or temporary signs erected or placed at or near the intersection of any street in such a manner as to cause a traffic hazard at the intersection or at any location where, by reason of the position, shape, color, or illumination of the sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.
 - g. Signs using of the words "STOP", "LOOK", "DANGER", "CAUTION" or any other word, phrase, symbol or character which may tend to confuse, mislead or resemble any governmental or duly authorized sign.
6. General Provisions

a. Sign area calculation

The area of a sign shall be determined by the smallest rectangle that encompasses all of the letters or symbols that make up the sign together with the area of any background of a different color or material than the general finish of the building, whether painted or applied. For the purposes of calculating total sign area, only one side of a two-sided area shall be counted.

b. Location of Signs

- (1) Signs shall not use utility poles or trees, rocks or other natural features as a medium of communication or means of support.
- (2) Wall signs and signs projecting from the face of building should be in proportion to the detail of the façade of the building.
- (3) No sign shall be located in a public right-of-way.
- (4) No sign shall be so located as to detract from, or obstruct public view of, historic buildings, scenic view or any other recognized natural features such as a waterfall, glen, etc.

c. Illumination of Signs

- (1) No sign shall flash or include artificial light that is not maintained stationary and constant in intensity and color at all times. Exempt from this requirement are signs exhibiting time and temperature information.
- (2) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into public right-of-way or residential properties.

- (3) Signs shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m. unless the premises on which it is located is open for business.
- (4) Internally lit signs shall only be permitted in the HC and BD Districts on properties adjacent to NYS Route 9G.

d. Sign Structure

- (1) Signs should be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings associated with the sign. Layout should be orderly and graphics should be of simple shape, such as rectangle, circle or oval. No more than 2 typefaces should be used on any one sign or group of signs indicating one message. The number of colors used should be the minimum consistent with the design.
- (2) Sign support structure shall be adequate to support the load of the sign of which it is supporting. Upon request of the Code Enforcement Officer, an engineered design, paid for by the sign owner, may be necessary.

e. Condition and Maintenance

- (1) Should any sign be or become unsafe, unsightly, damaged, in danger of falling, or is a menace to the public, the owner thereof or the person maintaining the same, shall upon receipt of written notice from the Code Enforcement Officer proceed at once to put such sign in a safe and secure condition, renovate or remove the sign; provided, however, that if such a situation is not corrected within 90 days from the date of receipt of written notice, the Code Enforcement Officer shall correct the situation or have it corrected, with the costs assessed to the property's town tax bill.
- (2) All renovations to any non-conforming sign shall be undertaken in such a manner so as to cause the sign to conform to this Law.

7. Signs in Residential Districts

Within the RC, AR, RR and HR districts, the following signs are permitted with a permit from the Code Enforcement Officer:

- a. Home occupation Identification Signs: One business sign for a home occupation shall be allowed and shall meet the following standards:
 - (1) Signs shall bear only the name and profession or occupation of the resident.
 - (2) Signs shall not exceed 3 square feet in area.

- (3) Signs may be located on the building wall or in the required front yard, provided that it is set back at least 10 feet from all property lines and is not more than 6 feet above the natural ground level at its location.
 - b. Business Identification signs: A property in a residential district utilized for a permitted nonresidential or business as a principal use shall be permitted up to 2 signs and shall meet the following standards:
 - (1) The maximum number of signs on a lot shall not exceed 2, of which only one (1) may be freestanding.
 - (2) The total cumulative area of all signs permitted on such lot shall be 12 square feet.
 - (3) Notwithstanding Article IV, Section C.10., Visibility at Intersections, the maximum height of a freestanding sign above grade level of the road shall be 8 feet and shall be set back at least 10 feet from any property line unless on a corner lot. On a corner lot a freestanding sign shall be set back 20 feet from the intersection.
 - c. Announcement signs or bulletin boards used by religious institutions, community centers, municipal facilities, schools and libraries and other similar uses shall be permitted. One announcement sign, not exceeding 6 square feet in area, shall be permitted on each public street frontage of its property, either fixed on the main wall of the building or located in the required front yard, provided that it is set back at least 5 feet from the front property line and at least 25 feet from all other property lines.
8. Signs in the Hamlet Mixed Use, Hamlet Commercial and Business Development Districts
 - a. Each lot shall be permitted up to 2 signs unless on a corner lot where one (1) additional sign shall be permitted.
 - b. Each lot shall be permitted one (1) freestanding or monument sign and one (1) additional wall mounted, roof or projecting sign. Signs may advertise more than one (1) business.
 - c. The maximum cumulative sign area permitted for all signs on a lot and the maximum sign area for different types of signs are provided in the Table below. The allowable sign areas differ to reflect the different character of each of these nonresidential or mixed use districts.

Schedule D: Sign Dimensional Standards						
Zoning District	Maximum Cumulative Sign Area	Maximum Freestanding Sign Area	Maximum Wall or Roof Sign Area	Maximum Projecting Sign Area	Maximum Freestanding Sign Height	Maximum Roof Sign Height
HMU	40 square feet	12 square feet	10% of front surface of building up to 16 SF	6 square feet	8 Feet measured from the finished grade	16 feet from finished grade or the highest point of the roof; whichever is less.
HC and BD	100 square feet	32 square feet	10% of front surface of building up to 60 SF	12 square feet	15 Feet measured from the finished grade	

d. Freestanding signs

Freestanding signs shall be setback at least 10 feet from any property line except on a corner lot where signs shall be setback 20 feet from the intersection and there shall be at least 3 feet of clear space between the sign board and the ground, provided that necessary supports may extend through such clear space.

e. Projecting signs

Projecting signs shall not project more than 4 feet from the side of the building and when suspended over a pedestrian walkway such as a sidewalk or entranceway, the bottom of such signs shall be no lower than 8 feet and no higher than 12 feet above the finished grade.

f. Wall-mounted signs

Wall-mounted signs shall not extend more than 12 inches from the surface of the wall; shall not cover a window, obscure architectural detailing, interrupt a roof line; and there shall be no more than 2 wall signs per business with a separate external entry and no more than one (1) wall sign per exterior wall of such business.

g. Roof-mounted signs

Roof-mounted signs shall meet the following additional standards:

- (1) Roof signs shall maintain a minimum 3 to 1 (3:1) ratio of length to height.
- (2) Roof signs shall not be internally lit.
- (3) External lighting of roof signs shall project down and be full cut-off light fixtures.

h. Awning or canopy signs

The valance portion of an awning or canopy may be used as a sign. The bottom of the awning or canopy shall be at least 8 feet above the finished grade.

9. Nonconforming Signs

A nonconforming sign shall not be enlarged or replaced by another nonconforming sign. If the sign is taken down at any point, it shall be replaced with a conforming sign.

10. Abandoned Signs

Any sign which is located on property which becomes vacant and unoccupied for a period of 90 days or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. The sign shall be removed after written notice by the Code Enforcement Officer, to the owner of the property on which the sign is affixed. In the event such sign is not voluntarily removed, subsequent costs of removal by the Town will be assessed against the property owner's tax bill.

ARTICLE VIII: PERFORMANCE STANDARDS

A. Intent

The performance standards contained herein are intended to protect both the community at large and proposed uses from abuse and negative impacts, while encouraging appropriate development to occur.

B. Applicability

Any use regardless of where it shall be located is subject to the following performance standards.

C. Noise

No noise which is objectionable due to volume, intermittence, bet frequency or shrillness shall be perceptible outside the property where it originates.

D. Vibration

No activity shall cause or create a steady state or impact vibration discernible at any property line except for permitted blasting in which case vibration and air shock levels shall meet the U.S. Bureau of Mines standards (Bureau of Mines Report of Investigation 8485) at the nearest structure.

E. Glare and Heat

No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the property line on which such use is situated.

F. Smoke

Smoke shall be measured at the point of emission and shall not exceed 20% visual opacity.

G. Odors

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable at the property line of the zone lot from which they are emitted without instruments.

H. Other forms of air pollution

No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, animal, vegetation, or other forms of property, or which can cause any excessive soiling.

I. Wastes

No solid or liquid wastes shall be discharged into any public sewer, common or private sewerage disposal system, stream, or on or into the ground, except in strict conformance with the standards approved by the New York State Health Department, the New York State Department of Environmental Conservation or other duly-empowered agency.

J. Radioactivity or Electromagnetic Disturbance

No activity shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or electrical disturbance adversely affecting the operation of radios, televisions, or any equipment other than that of the creator of such disturbance.

K. Fire and Explosion Hazards

All activities involving and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code and Department Environmental Conservation Regulations, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be fully observed.

ARTICLE IX: PLANNED DEVELOPMENT DISTRICTS

A. Purpose

1. It is the intent of the Planned Development District (PDD) to recognize a defined area for unified and integrated development that creates more flexible development opportunities than would be possible through the strict application of the land use and development regulations of this Law. Where planned development techniques are deemed appropriate through the rezoning of land to a PDD by the Town Council, the set of use and dimensional specifications located elsewhere in this Law may be replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.
2. In order to carry out the intention of this Article, a planned development shall achieve the following objectives:
 - a. More useable open space and recreation areas.
 - b. Preservation of trees and outstanding natural topographic and ecological features.
 - c. A creative use of land and related physical development, which allows an orderly transition of land from a vacant state to a developed state.
 - d. An efficient use of land resulting in economical networks of utilities and streets.
 - e. A development pattern in harmony with the planning objectives of the Town.

B. Planned Residential Development (PRD) District

1. Purpose

The purpose of the PRD District is to provide flexibility for residential development that enhances the efficient use of land, energy, community services and utilities, preserves open space and protects natural resources through increased density and housing options.

2. Permitted Uses

The permitted principal and accessory uses in the PRD include all principal uses permitted in Schedule A for the existing zoning district in which the PRD is being considered, as well as the following additional uses:

- a. Townhouses
- b. Multi-family

C. Planned Senior Housing Development (PSHD) District

1. Purpose

The purpose of the PSHD District is to incorporate a variety of affordable housing types at a more flexible density with on-site accessory medical, retail and service uses for purposes of meeting the needs of the Town's senior citizens.

2. Permitted Uses

a. The permitted principal and accessory uses in the PSHD include all principal uses permitted in Schedule A for the existing zoning district in which the PSHD is being considered and may include the following additional uses:

- (1) Townhouses
- (2) Multi-family dwellings
- (3) Cottages
- (4) Continuing care communities that include townhouses, apartments and residential care facilities
- (5) Activity and recreational services and facilities serving the residents of the PSHD
- (6) Medical offices
- (7) Retail and personal service establishments under 5,000 square feet of gross floor area that are intended to serve the residents of the PSHD.

b. Age Restriction

Housing described in this section shall exist or be designed and constructed for the needs of seniors and is subject to the management or other legal restrictions that require all of the units to be occupied by persons 55 years of age or older. Only under the following circumstances may adults under 55 years of age and children reside in the units:

- (1) The adult is the spouse of a person 55 years of age or older.
- (2) The adult's presence is essential for the physical care of a person 55 years of age or older.
- (3) The minor children are residing with their parent, parents or legal guardians where the parent, parents or legal guardians are 55 years of age or older, and the minor children residing therein are under a physical or other disability and cannot care for themselves.

3. Legal assurances for the provision of senior housing

Each application for proposed senior citizen housing development shall be accompanied by appropriate deed restrictions, easements and the like, in form and content satisfactory to the Town Council, as may be necessary to provide for and assure continued proper future maintenance and ownership responsibilities for all common areas, facilities and utilities with each stage of development or section thereof.

D. Planned Business Development (PBD) District

1. Purpose

The purpose of the PBD is to provide flexible business development opportunities for viable business prospects with the objective of improving the overall economic health of the community. A PBD shall meet the following criteria:

- a. The business development will be compatible with, and will not adversely affect, abutting properties.
- b. The development will be a permanent and long-term asset to the Town.
- c. The pattern of development will preserve trees, natural topography and geologic features and prevents soil erosion and provides for landscaped areas.
- d. There will be an efficient use of land resulting in smaller networks of utilities and streets.
- e. The development will be a more desirable environment than would be possible through the strict application of other sections of this Zoning Law.
- f. The development meets the intent of the Comprehensive Plan.

2. Permitted Uses

- a. The permitted principal and accessory uses in the PBD include all principal uses permitted in Schedule A for the Business Development District (BD).

E. General requirements

1. Applicability

Except as otherwise permitted in this Article, all uses and lot development standards for a PDD shall be the same as the permitted use and lot development standards required in Articles III and IV for the existing zoning district in which the PDD under consideration is located.

2. Minimum area

Tracts of land under consideration shall contain a minimum of 20 contiguous acres. The applicant shall have the burden of establishing that the tract is of sufficient size and shape to be planned and developed as a unified whole capable of meeting the objectives established in this Article.

4. Ownership

The tract of land under application for consideration for a planned development district may be owned, leased, or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners or their agent(s) of all property included in the project. The approved plan shall be binding upon all the property owners and such owners shall provide written certification of such binding agreements.

5. Location of Planned Development District

The planned development district may be applicable to land located in the AR, RR or BD Districts where the applicant can demonstrate that the characteristics of the area will meet the objectives of Section A of this Article.

6. Density

To more effectively utilize land in a planned development, improved environmental quality can usually be produced with greater density than is usually permitted in traditional zoning districts. The Town Council shall determine in each case the appropriate land use intensity and/or dwelling unit density for individual projects. The determination of land use intensity ratings or dwelling unit density shall be thoroughly documented, including all facts, opinions and judgments justifying the selection of the densities.

7. Setbacks

To more effectively utilize land in a planned development, the required setbacks of the existing zoning district in which the PDD is proposed to be located may be reduced up to 50% as determined by the Town Council and Planning Board as part of Site Plan Review except that the perimeter setback in the PBD shall be 200 feet from any residential property. The Town Council and Planning Board shall determine, in each case, whether a reduced setback is appropriate. The determination of setbacks shall be thoroughly documented, including all fact, opinions and judgments justifying the selection of the setbacks.

8. Maximum Impervious Surface Coverage

The aggregate maximum impervious surface coverage for a PDD shall be 50%.

9. Open Space Requirements.

- a. Common open space totaling not less than 40% percent of the total Planned Development District shall be provided in perpetuity.
- b. Parking areas, roads, house sites, other impervious surfaces, and their improvements shall not be included in the calculation to determine the amount of available open space. However, the entire tract, apart from these exceptions shall be considered in determining the required amount of open space. The following facilities or improvements may be located on open space land: common septic systems, water systems, stormwater systems, bike paths, walking trails, and other common community facilities that do not involve buildings, such as tennis courts, swimming pools, and playgrounds.
- c. The location, size, and character of the open space must be suitable for the PDD and must be used for amenity or recreational purposes.
- d. The proposed development design shall strictly minimize disturbance of environmentally sensitive areas. The Planning Board shall encourage areas of open space to be connected, where appropriate. Where important open space areas exist contiguous to the subject parcel, every effort shall be made to locate the on-site protected open space adjacent to these open space areas.
- e. A recreational fee in lieu of land, as set forth in the Town's Fee Schedule, may be imposed to accommodate the foreseeable recreational needs of the residents of the proposed development, should the Planning Board determine that the open space lands set aside will not provide adequately for these recreational needs.

- f. The preferred way of protecting open space is for the applicant to provide deed covenants and restrictions acceptable to the Town Attorney. Conservation easements will also be considered in a case where they are transferred to a conservation organization or to a homeowners association acceptable to the Town. However, regardless of how open space is permanently preserved, it is required that the Town be granted third party enforcement rights to enforce the terms of all restrictions, easements or other legally binding instruments providing for open space. Such provisions shall include that the Town shall be entitled to reimbursement for all costs, expenses and attorneys fees incurred in connection with such enforcement, to be collected from the party against whom enforcement is sought.
- g. Unless otherwise agreed to by the Planning Board, the cost and responsibility of maintaining common open space and facilities shall be borne by the homeowners' association, conservation organization or private owner(s). The Planning Board shall have the authority to require a bond or other security measure to ensure proper maintenance of open space and the facilities located on the subject parcel
- h. When a PDD borders on active farm land, no dwelling structure shall be allowed within 100 feet of a field or pasture or 300 feet of a barn.

10. Sewage Treatment Systems

The Town of Germantown encourages shared or community sanitary sewage disposal systems for planned developments. Such systems may be located in the required open space lands, provided such areas are not paved or covered with other impervious surfaces. Sanitary sewage disposal systems of an individual nature may also be located within or extend into required open space areas. Regardless of the type of subsurface sewage disposal methods employed, all required separation distances shall be observed and the ownership and maintenance responsibilities associated therewith shall be clearly defined in agreements submitted for approval as part of the application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-a of New York State Town Law.

11. Building Design Standards

All buildings shall be an integral part of the layout and design of the entire development. Individual buildings shall generally be related to each other in design, massing, materials, placement, and connections so as to create a visually and physically integrated development.

12. Landscaping Design Standards

The development shall have a coordinated landscape design for the entire site. Wherever possible, existing trees shall be conserved and integrated into the overall landscape design. Landscaping shall include shrubs, ground cover, and street trees. Street trees shall be provided along all streets and pedestrian walkways. Parking lots shall be landscaped and screened.

13. Circulation Design Standards

Roads, pedestrian walkways and/or sidewalks shall be designed as an integral part of the overall site design and shall be connected to the existing sidewalk network.

F. Application and Procedures for all Planned Development Districts

Whenever a PDD is proposed, before any building permit is issued in such PDD and before any subdivision plat or any part thereof may be filed in the office of the Columbia County Clerk, the developer or his/her authorized agent shall apply for and secure approval of such planned development in accordance with the following procedures:

1. Application to Town Council

- a. Application, in triplicate, for a PDD shall be made to the Town of Germantown Town Council on such forms as may be provided by the Council or its agent. The Town Council may, if it determines that the proposal merits review, refer the application to the Planning Board for review and recommendation. If the Town Council determines that the proposal does not merit review because it does not meet the objectives of this Article, it shall not refer the application to the Planning Board and no further action on the application shall be taken.
- b. If the Town Council refers the application to the Planning Board, 7 copies of the application shall be supplied by the applicant to the Planning Board for purposes of their review.

2. Application Submission Requirements

- a. The application for a PDD shall include a sketch plan drawn to scale, in sufficient detail to clearly show the following information:
 - (1) The location of the various uses and their areas.

- (2) The general outlines of the interior roadways system and all existing rights-of-way and easements, whether public or private.
- (3) For the PRD and PSHD, delineation of the various residential areas, indicating for each such area:
 - (a) General extent, size and composition in terms of total number of dwelling units.
 - (b) Approximate percentage allocation by dwelling unit type (i.e., single family, two-family, townhouse, multi-family).
 - (c) Description of the intended market structure (i.e., luxury, middle-income, moderate income, elderly units, family units, etc.).
 - (d) Calculation of the residential density in dwelling units per gross acre (total area including interior roadways) for such area.
 - (e) Calculation of total permeable area.
- (4) For the PBD, the following additional information shall be provided:
 - (a) Location of various proposed uses and the approximate square footage of each.
 - (b) Location of all parking areas.
 - (c) landscaping.
 - (d) exterior lighting.
 - (e) Show typical elevations and floor plans of all buildings.
 - (f) Proposed construction sequence for buildings, parking and landscaping.
 - (g) An economic statement or market statement describing the potential demands for the services offered or products produced by the proposed project. The statement shall include facts and information describing the type of activity to be conducted on the premises, the type of products or services produced or offered, and the potential customers of the products or services.
- (5) The open space plan including a general statement as to how common open space is to be owned and maintained. Only usable land shall be considered for such purposes.

- (6) The overall drainage system.
 - (7) Location of all utilities.
 - (8) A topographic map. If grades exceed 5% or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, the topographic map must show contour intervals of not more than 2 feet of elevation, along with an overlay outlining the above susceptible soil areas, if any. If grades are less than 5%, the topographic map may be at 10 foot contour intervals.
 - (9) Sufficiency of water supply and sewage disposal.
 - (10) General description of the provisions of community facilities, such as schools, fire protection services, transportation and cultural facilities, and some indication of how these needs are proposed to be accommodated.
 - (11) A location map showing existing uses and names of owners of abutting lands.
 - (12) A full environmental assessment form.
 - (13) Evidence of how the developer's proposed mix of land uses meets existing community demands.
 - (14) If the development is to be phased, a general indication of how the phasing is to proceed.
 - (15) Evidence of the applicant's financial competence to carry out the plan.
 - (16) A consistency statement identifying compliance with the specific PDD.
 - (17) A fiscal impact analysis identifying projected short and long-term impacts on municipal and school district budgets as applicable.
3. Referral of the application to the Planning Board.

The Town Council shall refer the application and accompanying documents to the Planning Board for its review and recommendation. Upon completion of its review, the Planning Board shall prepare and submit a report to the Town Council regarding this application, recommending either adoption, adoption with modification or rejection of the requested rezoning and stating the reasons for such recommendation. If the recommendation is favorable, the report shall include the following findings:

- a. That the proposal complies with the objectives of the Town's Comprehensive Plan.
- b. That the proposal meets the intent and objectives of the PDD as expressed in this Article.
- c. That the proposal is conceptually sound in that it meets local and area-wide needs and it conforms to accepted design principles in the proposed functional roadway and pedestrian system, land use configuration, open space system, drainage system and scale of elements, both absolutely and to one another.
- d. That there are adequate services and utilities available or proposed to be made available in the construction of the development.
- e. That traffic will not have an adverse impact on the adjoining transportation system; or, alternatively that proposed traffic mitigation measures will reduce such impacts.

4. Town Council Action

- a. Review Planning Board Recommendations

Upon receipt of the report from the Planning Board, the Town Council shall review the application and the Planning Board's recommendation and then take the following actions:

- b. SEQRA

The Town Council shall initiate State Environmental Quality Review. An application for a PDD rezoning shall be a Type 1 Action. The Town Council shall follow the same steps as required for SEQRA in Article XIII, Site Plan Review, Section D.

- c. Public Hearing

The Town Council shall then set a date for and conduct a public hearing to consider the application.

- d. Referral to County Planning

The Town Council shall refer the application to the Columbia County Planning Board for a referral in accordance with New York State General Municipal Law 239-M.

- e. Town Council Decision

- (1) Upon completion of the public hearing and due consideration of the application, the Town Council shall act to adopt, adopt with modifications, or reject the requested rezoning.
- (2) If the Town Council grants the Planned Development District, the PDD will not be in effect until the Planning Board grants final Site Plan approval and work commences within 2 years.
- (3) The Town Council may attach to its resolution approving the rezoning additional conditions or requirements in order to protect the health and safety of the community. Such requirements may include but are not limited to:
 - (a) Types of uses
 - (b) The density and intensity of land use
 - (c) Screening and buffering
 - (d) Schedule of construction and occupancy
 - (e) Pedestrian and vehicular circulation system
 - (f) Parking and snow removal
 - (g) Sites for public service
 - (h) Protection of natural and/or historical features

5. Planning Board Site Plan Approval

Upon approval of the zoning request by the Town Council, the applicant shall submit final plans to the Planning Board for Site Plan Review, consistent with the site plans submitted with the application to rezone, with such modifications as may have been required by the Town Council. Final Site Plan submittal requirements shall be as set forth in Article XIII, Site Plan Review of this Law.

6. Required Timely Commencement of Project.

The applicant of any project within an area zoned as a PDD shall, commence building and construction within 2 years following final approval of the Planning Board. In the event a building permit is not secured, the Planned Development approval shall terminate and the project parcel(s) shall revert to the district classification.

ARTICLE X: SUBDIVISION OF LAND

A. General Provisions

1. Planning Board Authority

The Town of Germantown Planning Board has the power and authority to approve or disapprove plats for subdivision within the Town of Germantown.

2. Policy

The Town of Germantown Planning Board shall consider land subdivision plats as part of a plan for the orderly, efficient, economic, environmentally sound development of the Town and toward that goal require that all land subdivision follow the guidelines under Section F, General Requirements.

In cases where the Planning Board finds that a proposed subdivision may adversely affect the preservation of natural or cultural resources and/or prime farmland or farmland of statewide importance, according to the soil survey prepared for Columbia County by the U.S. Department of Agriculture, the Planning Board may require an applicant to submit a plan for a conservation subdivision as provided for in Section 278 of New York State Town Law and Section E of this Article.

These subdivision regulations shall supplement and facilitate the provisions of this Law, the Zoning Map and Town's Comprehensive Plan. The following objectives shall guide the Planning Board's decisions:

- a. Land is to be subdivided in a way that protects the natural, cultural and scenic resources of the Town for the benefit of all residents.
- b. Subdivided lots shall be of such character that they can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- c. Proper provision shall be made for water supply, drainage, sewage, utilities and other needed improvements.
- d. Proposed development shall be planned such that it is compatible with sound development patterns of adjacent and neighboring properties within the Town of Germantown.
- e. Proposed public roads shall compose a convenient system and shall be of such width, grade and location as to accommodate present and prospective traffic, and shall meet town highway specifications and other local laws of the Town of Germantown. Rural road standards will be promoted for development within NR, AR and RR Districts with requirements matching the low intensity rural purpose.

- f. Provision shall be made for adequate permanent reservations of open space, pedestrian trails, viewing areas, and parks, and such areas shall be shown on the plat.
- g. Provision shall be made for maintaining undeveloped natural areas and corridors to mitigate any adverse environmental impacts of a proposed subdivision, and to sustain biodiversity, protect water resources, agricultural soils, historic and archaeological assets, and viewsheds in order to implement the Town’s policies of protecting environmental and cultural resources pursuant to this Law, the Town Comprehensive Plan and other applicable local laws.
- h. All reviews of applications specified in these regulations shall be coordinated with involved agencies and boards at the local, County and State levels to ensure consistent, well-designed subdivisions and decision-making that will benefit the Town of Germantown.
- i. In their interpretation and application, provisions of these regulations shall be held to the minimum requirements. More stringent provisions may be required if it is demonstrated that different or higher standards are necessary to promote the Town’s public health, safety and welfare.

3. Inconsistencies with Town Law

Should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

4. Self-imposed restrictions

Nothing in these regulations shall prohibit the subdivider from placing self-imposed restrictions, not in violation of these regulations, on the development. Such restrictions, however, shall be indicated on the plat.

B. Definitions

1. Word interpretation

The word “street” includes “road,” “highway” and “lane”; and “watercourse” includes “drain,” “ditch” and “stream.” The word “shall” is mandatory unless otherwise indicated.

2. Terms defined

Unless otherwise expressly stated in this Law, the following terms shall, for the purpose of these regulations, have the meanings indicated below. Other terms found in this Article may be defined in Article XVII.

APPLICANT: See owner.

BUILDING ENVELOPES: The preferred area(s) for development on a property based upon site conditions and after discussion with the Planning Board.

CONSERVATION EASEMENT: The grant of a property right or interest from a property owner to a unit of government or qualified conservation organization that permanently limits some uses of the land in order to protect its conservation values. Landowners continue to own and use their land and may sell or pass it on to heirs.

CONSERVATION SUBDIVISION: A subdivision that preserves at least 40% or more of a property's buildable land in large contiguous areas of open space and/or agricultural soils through more compact design, and that does not alter the underlying density for that district unless through specific incentives defined in this Law.

EASEMENT: A right granted to use certain land for a special purpose not inconsistent with the general property rights of the owner.

HOMEOWNERS ASSOCIATION (HOA): An incorporated organization that owns and maintains property for the common benefit of individual homeowners or lot owners in a subdivision, condominium or planned community. The Association collects monthly fees from all owners to pay for common area maintenance, handle legal and safety issues and enforce the covenants, conditions, and restrictions set by the developer.

LOT LINE ADJUSTMENT: A modification of lot boundaries in which a portion of one (1) or more lots is added to an adjoining lot without increasing the total number of buildable lots.

OFFICIAL MAP, TOWN: A map established by the Town Council under Section 270 of the New York State Town Law, showing the streets, highways and parks theretofore laid out, adopted and established by law and all changes or additions thereto made under the provisions of Section 273 of the New York State Town Law.

OFFICIAL SUBMITTAL DATE: The date when a sketch plan, a preliminary layout or a subdivision plat shall be considered submitted to the Planning Board, hereby defined to be the date of the meeting of the Planning Board at which all required surveys, plans and data described in Section F of this Article are submitted.

OWNER: The owner of the land proposed to be subdivided or his/her duly authorized agent.

PAVEMENT: The paved portion of a street, including paved shoulders and on street parking areas, but not including sidewalks and driveways.

PLAT: A map representing a tract of land showing the boundaries and location of individual properties and streets prepared by a licensed land surveyor and a licensed

professional engineer, registered architect or licensed landscape architect, which shall have his/her New York State seal affixed thereon and on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

PRE-APPLICATION MEETING: Discussion of initial concepts for a proposed subdivision with the reviewing board and, for Major Subdivisions, with submission of a Resource Analysis.

PRELIMINARY PLAT: A plan prepared by a licensed professional engineer, licensed land surveyor, registered architect or a licensed landscape architect, on a base map prepared by a licensed land surveyor, showing existing features of the land and proposed street utility and lot layout within and adjacent to a subdivision.

PRELIMINARY REVIEW: Preliminary project plans submitted to the Planning Board for review and comment prior to the submission of a formal application.

REAR LANE: A strip of land over which there is a right-of-way, publicly or privately owned, on which no building fronts, serving as a secondary means of access to 2 or more properties.

RESOURCE ANALYSIS: The inventory and evaluation of natural, historic and cultural resources on a property to identify those resources to be protected, provide the basis for the maximum density calculation and determine locations for building envelopes.

RESUBDIVISION: A change in a subdivision plat or resubdivision plat filed in the office of the Columbia County Clerk, which change affects any street layout shown on such plat, affects any area reserved thereon for public use or diminishes the size of any lot shown thereon.

RIDGE: A ridge is a geological feature that includes a continuous elevational crest for some distance. Ridges can be termed hills or mountains depending on size and shape.

RIGHT-OF-WAY: The usage of the term “right-of-way” for subdivision platting purposes means that every right-of-way established and shown on a final plat is separate and distinct from the lots or parcels adjoining the right-of-way, and is not included, within the dimensions or areas of such lots or parcels. Rights-of-way involving maintenance by a public agency are dedicated to public use by the maker of the plat on which the right-of-way is established. See also the definition of “right-of-way” in Article XVII, Definitions, of this Law.

SHARED DRIVEWAY: A privately owned and maintained driveway that serves up to 3 residences, does not require a turnaround, and is governed by a shared maintenance agreement among all owners. Driveway access is typically controlled by sight-line, grades, and ecological factors, such as wetlands and stream crossings.

SIGHT DISTANCE: The distance an object 18 inches off the pavement (such as a head light) is visible from an eye level 4 ½ feet above the pavement (average-height of driver's eyes).

SIGNIFICANT WILDLIFE HABITATS: Lands that contain significant food, water, or cover for native terrestrial and aquatic species of animals and plants.

SKETCH PLAN: A freehand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

STREET: A public or private way, which affords the principal means of access to abutting properties including any highway.

The following functional classification is used in these regulations.

- a. **RESIDENTIAL COLLECTOR ROAD:** A residential collector road collects traffic from residential areas and channels it to larger roads, such as county highways, state highways, arterials, and interstates. It is well-traveled and accommodates a variety of vehicles, including large delivery trucks, school buses, pick-up trucks, vans and cars.
- b. **RESIDENTIAL AND FARM ACCESS ROAD:** This road, used mostly by cars, small trucks and farm vehicles, provides access solely to residences or to residences and farm areas. Traffic on this road is light, but it may include occasional large trucks, school buses and farm equipment.
- c. **PRIVATE ROAD:** This is a paved or unpaved road that serves a limited number of single-family residences or a recreational area. Private roads can be maintained by local highway departments or by a private homeowner association.
- d. **CUL-DE-SAC or DEAD-END STREET:** A minor street with 1 end open for public vehicle and pedestrian access and the other end terminating in a vehicular turnaround.

STREET WIDTH: The distance between property lines.

SUBDIVIDER: Any person, firm, corporation, partnership or association who or which shall lay out, for the purpose of sale or development, any subdivision or part thereof, as defined herein, either for himself or others.

SUBDIVISION: The division of any parcel of land into 2 or more lots, blocks or sites, with or without streets or highways and includes re-subdivision.

SUBDIVISION, MAJOR: Any subdivision not classified as a Minor Subdivision, including but not limited to, subdivisions of 5 or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

SUBDIVISION, MINOR: Any subdivision containing not more than 4 lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map or this Zoning and Subdivision Law.

SUPERINTENDENT: The duly elected Town Superintendent of Highways or other such authorized official.

C. Lot Line Adjustments

1. An applicant may request that the subdivision review process be waived when a proposed subdivision is a lot line adjustment that meets the following criteria:
 - a. It would not create an additional lot;
 - b. It is a minor modification of an existing lot line; or is the conveyance and merger of a portion of one parcel to an adjoining parcel;
 - c. It would not create a nonconforming parcel or cause any other parcel to become nonconforming; and
 - d. It would comply with all applicable zoning requirements of this Law and applicable New York State Department of Health regulations pertaining to well and septic system distances from parcel boundaries.

2. Submission requirements

To request a lot line adjustment waiver, the applicant shall submit:

- a. A waiver application that shall be signed by the parcel owners, or their duly authorized agents, of both affected parcels.
- b. A plat or map of the parcels affected by the proposed adjustment, showing all existing buildings, the location of existing utility or other easements or rights-of-way, of wells and of septic systems. The map shall show the existing lot lines and the location of the proposed new lot line, and the existing and new setback distances to any existing buildings.

The map shall have the title “LOT LINE ADJUSTMENT between properties of (name) and (name)”, and shall include a restriction to the effect that the land added to the existing parcel, and the existing parcel are combined to form a single, undivided lot.

- c. A fee as established by the Town Council in the fee schedule.
- 3. Planning Board Review and Approval
 - a. Upon submission of a complete application, the Planning Board shall, within 62 days, review the application and shall either approve or deny the application. Approval may be granted when the Planning Board determines that the proposed adjustment meets all requirements for a Lot Line Adjustment and would not adversely affect the site's development or neighboring properties, would not alter the essential characteristics of the neighborhood or adversely affect the health, safety or welfare of Town residents.
 - b. No public hearing shall be required.
 - c. If the waiver is granted, the applicant shall file a map with the Columbia County Clerk within 62 days of the approval date. The map shall be signed and stamped by the Planning Board. No person shall file plans for any lot line adjustment without first obtaining the Planning Board's signature and stamp on the plans.
 - d. If the Planning Board denies the request for waiver, the applicant may proceed with the minor subdivision review process as set forth in this Article.

D. Minor and Major Subdivision Application and Approval Procedure

1. Compliance required

Whenever any subdivision or resubdivision of land in the Town of Germantown is proposed, the subdividing owner or their authorized agent shall apply for and secure approval of such proposed subdivision before any contract for the sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Subsection.

2. Pre-application procedure

Prior to filing a formal application for approval of a subdivision plat pursuant to this Section, the applicant shall follow the pre-application procedure. This procedure consists of a Pre-Application Meeting and submission of a Sketch Plan. All applicants are encouraged to attend a Pre-application Meeting prior to submitting the Sketch Plan and applicants for major subdivisions are required to do so. An applicant for a Major Subdivision is also required to submit a Resource Analysis.

a. Pre-application meeting

- (1) The Pre-application Meeting is an opportunity for the applicant to present and discuss a conceptual plan for the proposed subdivision prior to committing resources to the preparation of a Sketch Plan. The conceptual discussion shall guide the layout of the subdivision that will be shown in subsequent plan submission(s).
 - (a) In preparation for this meeting, the applicant should become familiar with this Article and all other relevant provisions of this Law, the Comprehensive Plan and SEQR requirements in order to have a general understanding of the subdivision review process.
 - (b) No statement, comment or other communication made during this informal review shall be binding upon any party.
 - (c) The pre-application process is required solely to assure that Town development goals are recognized as they may apply to the site in question. This should help expedite the process by getting the review off to a cooperative start, before the applicant has made a substantial investment in the application process.

b. Resource Analysis for Major Subdivisions

- (1) Prior to, or in conjunction with, a submission of a sketch plan, an applicant for a major subdivision shall submit a resource analysis and participate in a discussion with the Planning Board to determine a conceptual plan for the proposed subdivision. The submission requirements for a Resource Analysis are included in Section G, Subsection 3. This will provide an opportunity for the owner and the Planning Board to discuss the appropriate range of and intensity of development; the general locations intended for development; areas planned to remain undeveloped; and general access alignment.
- (2) To verify that all necessary information is discussed and reviewed in this process, the applicant and the Planning Board shall fill out a Resource Analysis Assessment Form and provide a copy to the applicant upon completion. In its review, the Planning Board members may schedule a field visit to the site, and this site walk may be necessary before the assessment can be completed.
- (3) The Planning Board will make recommendations for modification or redesign to be incorporated by the applicant in the next submission to the Planning Board and indicate to the applicant the priority resources to be preserved. Any requirements of this Law which the applicant requests to be waived should be discussed at this time.
- (4) The Resource Analysis and Conceptual Plan discussion does not allow filing of a plat with the County Clerk or authorize the sale or lease of, or any offer to

sell or lease any lots in such subdivision or any part thereof. The Resource Analysis and Conceptual Discussion allows the applicant to proceed with Sketch Plan application

c. Sketch Plan

- (1) The purpose of the Sketch Plan is to review and discuss the proposed subdivision and reach general agreement on the requirements of this Article and to classify the subdivision as either a minor or major subdivision.
- (2) Prior to filing a formal application for approval of a subdivision plat pursuant to Section D, Subsection 3, Minor subdivisions or Section D, Subsection 4-a, Preliminary Plat, the applicant shall submit 7 copies of a Sketch Plan at least 10 days prior to the regular meeting of the Planning Board and a filing fee as specified by the Town Fee Schedule shall accompany the submission. Required information for the Sketch Plan is specified in Section G, Subsection 6, Sketch plan, of these regulations.
- (3) The Subdivider or his/her duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of this Article for street improvements, drainage, sewerage, water supply, fire protection and other improvements, as well as the availability of existing services and other pertinent information. At such meeting the Planning Board shall also discuss other requirements of this Zoning and Subdivision Law.

(4) Subdivision Classification

Classification of the Sketch Plan is to be made at this time by the Planning Board as to whether it is a Minor or Major Subdivision as defined in this Law. The Board may require, however, when it deems it necessary for protection of public health, safety or welfare, that a Minor Subdivision comply with all or some of the requirements specified for Major Subdivisions.

In the event that the sketch plan is unacceptable, the applicant will be asked to submit a new plan before proceeding with a final plat, or a preliminary plat in the case of a major subdivision. Reasons for recommended modifications or rejection of the sketch plan shall be reflected in the minutes of the Planning Board. The Planning Board may, in its discretion, choose to provide a written summary of these determinations.

3. Minor subdivisions

a. Application

Within 6 months after classification of a proposal as a minor subdivision by the Planning Board, the subdivider shall submit a subdivision plat as an application

for approval of a minor subdivision plat. Said application shall contain the requirements listed in Section G, Subsection 8, Final Plat, of these regulations and shall conform to the general requirements and design standards specified in Section F of this Article. Fees as specified in the Town fee schedule for each minor subdivision shall accompany the application. A subdivider is only allowed one (1) minor subdivision of said land every 3 years. The Planning Board shall have the authority to modify survey requirements for minor subdivisions such that only the land being subdivided must be surveyed. The balance of the land, so long as the subdivision does not result in an undersized lot, does not need to be surveyed unless requested by the Planning Board.

b. Number of copies

The original and 7 copies of the subdivision plat shall be presented to the Planning Board at least 10 days prior to a scheduled monthly meeting of the Planning Board.

c. Public hearing

A public hearing shall be held by the Planning Board within 62 days from the time of submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the Town at least 5 days before such hearing.

d. Action on subdivision plat

(1) The Planning Board shall, within 62 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the subdivision plat. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the plat.

(2) Upon granting conditional approval, with or without modification to the plat, the Planning Board shall empower a duly-authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within 5 days of the resolution granting conditional approval, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy filed in its office. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally-approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed 2 additional periods of 90 days each.

- e. Plat void if revised after approval

No changes, erasures, modifications or revisions shall be made on any plat after approval has been given by the Planning Board. In the event that any plat, when recorded, contains any such changes, the plat shall be considered null and void; and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.

- f. Filing of approved plat. Approval of the plat shall expire within 62 days from the date of such approval unless within such 62 day period such plat shall have been duly recorded by the owner in the office of the Columbia County Clerk. If the plat is not filed within this period, the approval shall expire as provided in Section 276 of the New York State Town Law.

4. Major Subdivision

- a. Preliminary Plat

Prior to filing an application for the approval of a plat, the applicant shall comply with the Pre-Application procedure as described in Section D, Subsection 2 by attending a Pre-Application Meeting, providing a Sketch Plan and preparing the Resource Analysis as described in Subsection 2 above.

- (1) Application procedure

Prior to filing an application for the approval of a plat, the applicant shall file an application for the approval of a preliminary plat. The application shall:

- (a) Be made on forms available at the office of the Code Enforcement Officer.
- (b) Include all land that the applicant proposes to subdivide.
- (c) Be accompanied by 3 copies of the preliminary plat and supplementary material described in Section G, Subsection 7, Preliminary Plat, of these regulations.
- (d) Comply in all respects with the requirements specified in Section F, General Requirements and Design Standards, of these regulations and with the provisions of Sections 276 and 277 of the New York State Town Law.
- (e) Be submitted to the Clerk of the Planning Board.
- (f) Be accompanied by fees as specified by the Town fee schedule.

(2) Study of preliminary plat

The Planning Board will carefully study the practicability of the preliminary plat, taking into consideration the results of the resource analysis and sketch plan discussions, the requirements of the community, the best use of the land being subdivided and the policy set forth in Section A, Subsection 2, Policy. Particular attention will be given to the proposed arrangement, location and width of streets; the relation of proposed streets to the topography of the land; sewage disposal; drainage; proposed lot sizes, shape and layout; future development of adjoining lands as yet unsubdivided; the requirements of the Town Comprehensive Plan, this Law and the Official Map; and matters enumerated in Section 277 of the New York State Town Law.

(3) Applicant to attend Planning Board meeting

The applicant shall attend a regular meeting of the Planning Board to discuss the preliminary plat and the Board's tentative conclusions.

(4) Approval of the preliminary plat

- (a) Within 62 days after the receipt of such preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least 5 days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.
- (b) Within 62 days after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary plat; and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form.
- (c) Within 5 days of the approval of such preliminary plat it shall be certified by the Clerk of the Planning Board as granted preliminary approval, a copy filed in its office, a certified copy mailed to the owner and a copy forwarded to the Town Council. Failure of the Planning Board to act within the time periods prescribed herein shall constitute approval of the preliminary plat.

- (d) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the subdivision plat. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.
- (e) Approval of the preliminary plat may not be revoked by the Planning Board unless a substantial change in the character of the area or the availability of new information about the site and its surroundings indicate the unsuitability of the development, as shown on the preliminary plat. Before revocation the applicant shall be informed, in writing, of the reasons therefore and shall be given an opportunity to be heard before the Planning Board.
- (f) Approval of a preliminary plat shall expire 6 months from the date of approval. Extensions for periods of 6 months may be granted by the Planning Board upon application. Such applications for extensions may be granted unless changed conditions or new information indicate the unsuitability of the development as shown on the preliminary plat.

b. Final plat

(1) Application procedure

Within 6 months after tentative approval of the preliminary plat is granted, the applicant shall file with the Planning Board an application for approval of a plat. The application shall:

- (a) Be made on forms provided by the Planning Board at the time tentative approval of the preliminary plat was granted.
- (b) Include the entire subdivision or a section thereof which derives access from a street improved to Town standards or for which street a performance bond for such improvement is held by the Town.

- (c) Be accompanied by 7 copies of the plat, as described in Section G, Subsection 8, Final Plat, of this Article.
- (d) Comply in all respects with the preliminary layout as tentatively approved.
- (e) Comply with the improvement requirements of Section H, Required Improvements and Agreements, of these regulations.
- (f) Be presented to the Clerk of the Planning Board at least 10 days prior to a regular meeting of the Board.

(2) Public hearing

Within 62 days of the submission of a plat in final form for approval, a hearing shall be advertised at least once in a newspaper of general circulation in the Town at least 5 days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under Section D, Subsection 4-a, Preliminary Plat of this Article, and modified in accordance with the requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

(3) Action on proposed subdivision plat

- (a) The Planning Board shall, by resolution, conditionally approve, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board, if no hearing is held, or in the event a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefore shall be deemed approval of the plat.
- (b) Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly-authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within 5 days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy filed in his/her office and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements that, when completed, will authorize the signing of the conditionally-approved final plat. Upon completion of such requirements, the plat shall be signed by said duly-authorized officer

of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally-approved plat may be submitted for signature, if in its opinion, such extension is warranted in the circumstances, for not to exceed 2 additional periods of 90 days each.

(4) Plat void if revised after approval

No changes, erasures, modifications or revisions shall be made on any plat after approval has been given by the Planning Board. In the event that any plat, when recorded, contains any such changes, the plat shall be considered null and void and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.

(5) Filing of approved plat

Approval of the plat shall expire within 62 days from the date of such approval unless within such 62 day period such plat shall have been duly recorded by the owner in the office of the Columbia County Clerk. If the plat is not filed within this period, the approval shall expire as provided in Section 276 of New York State Town Law.

(6) Division of plat into 2 or more sections

The Planning Board may permit the plat to be divided into 2 or more sections, subject to such conditions as it deems necessary to assure orderly development of the subdivision. Approval of the sections shall be granted concurrently with the approval of the plat. The approved plat, or any approved section thereof, shall be recorded within 62 days of approval, subject to any conditions imposed, and shall encompass at least 10% of the total number of lots shown on the plat. Approval of any other sections not recorded shall expire unless recorded before the expiration of the period to which such plat is entitled under the provisions of Section 265-a of the Town Law. In the event the applicant does not record all approved sections, the entire plat shall be filed with the Town Clerk within 30 days from the recording of the plat or any approved section thereof, and the applicant shall file with the Planning Board a photostatic copy of the plat certified by the County Clerk to be a true copy of the recorded plat.

(7) Public acceptance of proposed streets and park areas

The approval by the Planning Board of a plat shall not be deemed to constitute or imply the acceptance by the Town of any street, park, playground or other open space shown on said plat. The Planning Board

may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Council covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any park or playground area.

(8) As-built drawings of required improvements

Drawings showing the location of all required improvements as built shall be certified by a licensed land surveyor and filed with the Planning Board at least 30 days prior to the acceptance of the improvements by the Town.

c. Issuance of building permits

A building permit for erection of a structure in a development laid out subsequent to the adoption of these regulations shall not be issued unless the street giving access to the proposed building appears on a recorded plat approved by the Planning Board and unless such street has been suitably improved or bonded to cover the full cost of improvement.

d. Improvements in streets

No public municipal street utility or improvement shall be constructed by the Town in any street or highway until it has become a public street or highway and is duly placed on the Official Map. However, subject to the discretion of the Town Council, a subsurface utility or improvement operated from revenue by the Town or by a special district may be constructed by the Town in a private street, provided that a public easement satisfactory to the Town Council is obtained for such utility or improvement.

E. Conservation Subdivision

1. Applicability

For major subdivisions the Planning Board may require, at its discretion, a Conservation Subdivision as outlined herein whereby at least 40% of the land is permanently preserved. Conservation Subdivision requirements may be applied to minor subdivisions if desired by the applicant.

2. Purpose

- a. To permanently protect open space and recreational opportunities, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, in a manner that is consistent with the Town of Germantown Comprehensive Plan;

- b. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
 - c. To minimize the total amount of disturbance on the site;
 - d. To further the goals and policies of the Town of Germantown Comprehensive Plan;
 - e. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
3. Steps in the process
- a. Resource Analysis
 - b. Sketch Plan
 - c. Preliminary Plat Review
 - d. Final Plat Review
4. Resource Analysis
- a. The Resource Analysis required in this Article shall be used to determine the amount of constrained land and other unique features with conservation value.
 - b. The Planning Board shall make a final determination as to which land has the most conservation value and should be protected from development. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the Conservation Findings).
 - c. The Planning Board may incorporate information provided by, but not limited to, its own research, site visits, consultants, other qualified experts or agencies or from public comments. If, as a result of the SEQRA review, information arises to cause the Resource Analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
 - d. The outcome of the Resource Analysis and the Planning Board's Conservation Findings shall be used as the basis for Sketch Plan Review.
5. Sketch plan review
- a. At the conclusion of the Resource Analysis process a Sketch Plan shall be submitted.

b. The Sketch Plan shall show the following:

- (1) Preferred locations for intensive development as well as acceptable locations for less dense development.
- (2) Proposed lot locations and roads.
- (3) Land to be permanently preserved and recommended conservation uses, ownership, and management guidelines for such land.
- (4) Land suitable for stormwater management facilities, which may be located within the preserved land area

c. At least 40% of the total acreage shall be preserved by and shown as such on the Sketch Plan, based upon the Conservation Findings. The Planning Board may require more based on the findings of the Resource Analysis.

6. Lot Sizes in Conservation Subdivisions

The Planning Board shall determine appropriate lot sizes in the course of its review of a Conservation Subdivision based upon the criteria established in this section and the requirements of the Columbia County Department of Health, Town services and or private water/sewage systems may be used to meet the these requirements. In order to permit a clustered lot configuration, wells and septic systems may also be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.

7. Other area and dimensional requirements

- a. In no case shall the number of principal building units exceed the number that would be permitted under a conventional subdivision.
- b. There shall be no required area, bulk, or dimensional standards in a Conservation Subdivision with the exception of building height and building length as stated in Schedule B: Dimensional Standards and where such subdivision abuts an existing residence, all side and rear yard setbacks are required as stated in Schedule B: Dimensional Standards for the district where the Conservation Subdivision is located.
- c. The applicant shall specify dimensional requirements for a proposed Conservation Subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat. The Planning Board may vary bulk requirements to accommodate a Conservation Subdivision. The Planning Board may entertain an application to develop a portion of a parcel if a Resource Analysis is provided for the entire parcel.

8. Permanent open space in conservation subdivisions
 - a. Open space set aside in a Conservation Subdivision shall be permanently preserved as required by this Section. Developed lands shall not impact the conservation value of the permanent open space.
 - b. Open space permanently preserved shall be done in the manner described in Section F, Subsection 7 of this Article.

F. General Requirements and Design Standards for Subdivisions

1. Compliance required

The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy considerations specified in Section A, Subsection 2, Policy, of these regulations and the following standards.

2. Preservation of existing features

Existing features which would add value to residential development, such as scenic views from roadways and public trails, ridgelines, water resources, steep slopes, active farmland, rock outcrops, forested areas, stonewalls, hedgerows, wildlife nesting or migration areas and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision.

3. Streets

a. General planning standards

The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to the proposed uses of the land to be served by such streets.

b. Relation to topography

Streets shall be logically related and conform insofar as possible to the original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.

c. Intersections

Intersections of residential collector streets by other streets shall be at least 1,000 feet apart.

d. Visibility at intersections

Within the triangular area formed at corners by the intersecting street lines, for a distance of 30 feet from their intersection and the diagonal connecting the end points of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Fences, walls, hedges or other landscaping shall not obstruct such visibility and shall meet the standards of Article VII, Section B of this Law.

e. Layout of minor streets

Minor streets shall be so laid out that their use by through traffic will be discouraged.

f. Treatment of arterial streets

Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

g. Minimum curvature

When continuing street lines (projected right-of-way tangents) deflect from each other at any one (1) point by more than 10°, they shall be connected by a curve with a radius at the inner street right-of-way line determined from the alignment standards specified in Subsection h below.

h. Alignment standards in relation to design speeds

Alignment standards in relation to design speeds are provided in the following table:

Schedule E: Street Alignment Standards				
Design Speed (miles per hour)	Minimum Radius Of Horizontal Curves (feet)	Maximum Percent of Grade	Minimum Forward Sight Distance (feet)	Minimum Length of Vertical Curve for Each 1% of Change in Grade (feet)
20	100	10	150	10
25	200	10	175	15
30	250	10	200	20
35	350	10	250	30
40	450	8	275	35
45	600	8	325	55

50	750	8	350	70
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i. Pavement of gutters.

Where street grades exceed 5%, gutters shall be paved.

j. Rear Lanes

(1) Rear lanes may be provided in any districts as private accessways.

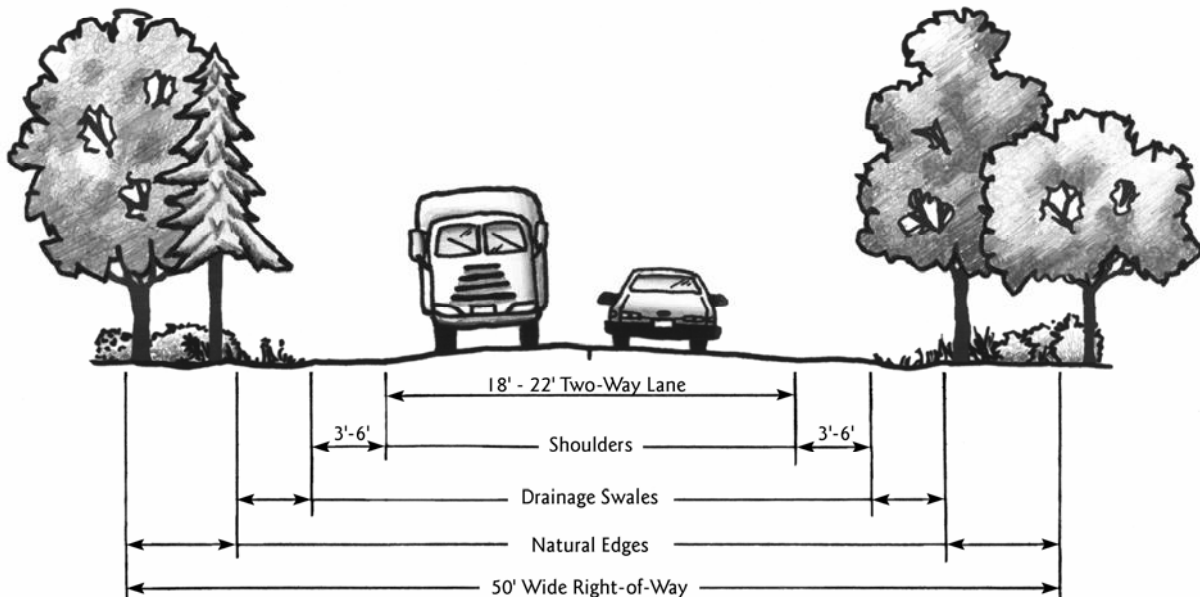
(2) Intersections of rear lanes and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

(3) Dead-end rear lanes shall be avoided when possible, but, if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the Planning Board.

k. Design Standards

Subdivision streets shall be designed to reflect the rural character of the Town of Germantown. The following design guides and standards should be referenced in the design of subdivision roads for all residential collector roads, residential access roads, private roads and cul-de-sacs.

Schedule F: Road Standards	
Right- of-way width	50 ft.*; plus a 35 ft. turn radius for cul-de-sacs
Pavement width (minimum-maximum)	18 ft. min. – 22 ft. max.; except private roads which shall be 16 ft. min -18 ft. max.
Shoulder width (minimum-maximum)	Residential collector 3 ft min. - 6 ft. max on each side; all other roads 1ft. min - 2 ft. max on each side
Grade (minimum-maximum)	1% minimum -10% maximum
Curb Radii (minimum-maximum)	5 ft. minimum -10 feet maximum
Minimum tangent length between reverse curves	Residential collector 100 ft; all other roads 50 ft.
Maximum grades within 150 feet of center-line intersections	1.5%
Minimum distance between center-line offsets at street jogs	300 ft. for residential collector; all other roads 125 ft.
Maximum length of Cul-de-sac	800 ft.**
Minimum outside radius of cul-de-sac pavement	75 ft.
Angle at intersections of street center lines (degrees)	90°
<p>* 50' right-of-way is required by State Highway Law, but grading and clearing should be reduced to the minimum necessary.</p> <p>**Except where, in the judgment of the Planning Board, the cul-de-sac does not impose any problem and constitutes a positive design feature.</p> <p>Note: Rear lanes, 12-16 pavement width, are allowed in hamlet areas and where the size and configuration of the subdivision is conducive to rear lanes.</p> <p>Note: Standards are not given for arterial streets, as they would in all probability be built by the state or county.</p>	



l. Continuation of streets into adjacent property

Streets shall be arranged to provide for the continuation of streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly, where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turn-around, a minimum of 50 feet in radius, shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.

m. Permanent dead-end streets (cul-de-sac)

Where a street does not extend to the boundary of the subdivision and it's not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than 100 feet.

n. Street names

All streets shall be named, and such names shall be subject to the approval of the Town Planning Board. Names shall be sufficiently different in sound and in spelling from the other street names in the Town so as not to cause confusion. A street that is a continuation of an existing street shall bear the same name.

o. Sidewalks, Bike Lanes and Curbs

Sidewalks, bike lanes and curbs shall be provided when considered necessary and appropriate, as for pedestrian safety. Sidewalks and curbs shall be made of concrete unless other materials are approved at the discretion of the Planning Board.

p. Improvements

Improvements shall be as indicated in Section H, Required Improvements and Agreements.

q. Private roads

The Planning Board may approve paved or unpaved private roads to provide access to lots in subdivisions, provided that the Planning Board finds that the proposed subdivision will protect the rural, scenic character of the Town. The private road requirements are as follows:

- (1) The maximum number of lots gaining access through any portion of a private road shall be 4.
- (2) Written approval from the Town Superintendent of Highways and the Town's engineer shall be secured before approval of any private roads.
- (3) A Homeowners Association (HOA) must be created to own and provide for the perpetual care and maintenance of the private road. The Planning Board shall have discretion to determine whether a performance bond must be posted by the applicant to ensure the proper completion of the private road and, if so, how much the performance bond shall be and what form it shall take.
- (4) Such HOA must have the power to assess the subdivision lot owners for their share of the maintenance costs of the private road. The HOA shall ensure that the road will always be maintained and kept open to permit emergency vehicle access.
- (5) The private road can only be offered for dedication to the Town of Germantown if it conforms to Town Highway specifications for private roads in effect on the date of the offer of dedication. However, the Town Council shall be under no obligation to accept such an offer of dedication, even if the road conforms to Town Highway specifications. In the event such dedication becomes necessary to ensure public safety, the cost of bringing the road up to Town Highway specifications shall be borne by the HOA.
- (6) The subdivision plat shall show the road clearly labeled "private road."

(7) Road design shall comply with the standards for private roads in this Law.

(8) The Planning Board may waive the requirement of a private road maintained by a HOA if it finds, after consulting with the attorney for the Planning Board or the Town Attorney, that a common drive maintained pursuant to a recorded maintenance agreement, executed by the applicant as a condition of subdivision approval, will provide the same protections to lot owners and the Town as would a private road owned by a HOA.

4. Blocks

a. General planning standards

(1) The length, width and shape of blocks shall be determined with due regard to:

- (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- (b) Zoning requirements as to lot sizes and dimensions.
- (c) Need for convenient access, circulation and control safety of street traffic.
- (d) Limitations and opportunities of topography.

(2) Irregular-shaped blocks or oversize blocks indented by cul-de-sac, parking courts or loop streets and containing interior block parks or playgrounds will be acceptable when properly designed, as determined by the Planning Board. Such blocks shall include adequate off-street parking, facilities for pedestrian access from streets to all lots, proper easements for utility lines and satisfactory provision for maintenance of park and open space, where included.

(3) Non-residential blocks intended for commercial or industrial use shall be of such length and width as is suitable for their prospective use. Such blocks shall include adequate provisions for off-street parking and servicing.

b. Design standards

(1) Block lengths for residential access roads shall not be less than 400 feet; blocks abutting on designated arterial streets shall be not less than 1,000 feet.

(2) Blocks over 800 feet in length may be required to have a crosswalk, if necessary, to facilitate pedestrian circulation to a school, park, recreation area, or other similar neighborhood facility.

5. Driveways

- a. The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a street shall be 10%. In cases of unreasonable hardship affecting a particular property, the approving authority may permit construction of a driveway that exceeds this standard provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed 15%.
- b. The minimum width of the driveway at the street pavement line shall be 15 feet, tapering to a minimum of 10 feet at the right-of-way line.
- c. Clear visibility shall be provided in both directions at all exit points so that the driver of a motor vehicle will have an unobstructed view of the highway from the driveway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the motor vehicle in the driveway.
- d. Shared driveways are encouraged where appropriate to maintain rural character and provide an economical and attractive method of serving up to 3 homes.

6. Lots

a. Number of Lots

The maximum density (number of lots) allowed for residential units is calculated by a formula based upon the acreage of “unconstrained land” on the property, as determined by the resource analysis.

- (1) To determine unconstrained acreage, the resource analysis shall subtract from the total (gross) acreage of the proposed development parcel the acreage of “constrained land.” Constrained land includes at minimum all wetlands 1/4 acre and over, all waterbodies, 100-year floodplains, slopes over 25% which are 2,000 square feet or more of contiguous sloped area, lands designated for protection by an official plan or unit of government, and lands currently under conservation easement.
- (2) To determine the “base” number of allowable residential units on the site, divide the unconstrained acreage by the minimum lot size requirement of Schedule B: Dimensional Table for the zoning district in which the subdivision is located. Round down fractional units of 0.5 or less. The resulting number is the maximum allowable residential units allowed on the site.
- (3) The density permitted by this section shall not be reduced as a result of the resource analysis required in Section G, Subsection 3, Resource Analysis and

Pre-Application Meeting, below or as a result of the reservation of parkland or open space during the subdivision process.

b. Density Bonuses

The maximum density permitted in Subsection 6 a. above may be increased through density bonuses designed to advance important goals of the Comprehensive Plan. These density bonuses may be combined to result in a total density bonus not exceeding 25%. The density permitted by this section shall not be reduced as a result of the Resource Analysis required in Section B above or as a result of the reservation of parkland during the subdivision process. Density bonuses are given at the discretion of the Planning Board based upon written findings by the Planning Board documenting the expected public benefit.

Density bonuses are calculated by first determining the allowable base density under Section D, Subsection 6-a above and then multiplying that number by 100% plus the percentages that follow:

- (1) If the applicant allows public access to protected open space on the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as a trail connector or access to an important natural area): a maximum of 25% density bonus.
- (2) If the applicant preserves at least 60% of the parcel as working farmland (including the creation and preservation of new working farmland): a maximum of 25% density bonus.
- (3) If the applicant preserves at least 40% of the parcel as permanent open space: a maximum 10% density bonus per additional 10% of the parcel preserved as open space. The requirements for permanent open space are provided in Subsection 7, Preservation of Open Space.

c. Lot Standards

- (1) Lots shall be arranged in a manner that protects land of conservation value and protects the scenic resources of the Town. Compact development is encouraged if it advances the protection of significant resources.
- (2) The minimum lot size, lot width and other dimensional standards of Article III, Schedule B, may be waived at the discretion of the Planning Board for any subdivision that meets the policy standards of Section A of this Article above, except where such subdivision abuts an existing residential lot, a public trail, and/or an agricultural use and provided that there is adequate lot area for the siting of on-site wells and on-site sewage treatment and disposal systems where planned.

- (3) Where lot width requirements have been waived, the minimum road frontage for each lot shall not be less than 50 feet.
- (4) Side lot lines shall be substantially at right angles or radial to street lines.
- (5) Through lots or reverse-frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement of suitable width, across which there shall be no right of access, may be required along the line of lots abutting such traffic artery or other disadvantageous use. As an alternate, where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street.
- (6) The plat shall provide each lot with satisfactory access to an existing public street or to a subdivision street that will be ceded to public use at the time of final plat approval. Private streets may be permitted only by resolution of the Town Council.
- (7) Radius corners shall be provided on the property line substantially concentric with the curb radius corners.

7. Preservation of Open Space

- a. If the arrangement of lots results in large expanses of preserved open space, the preserved open space may be included as a portion of one or more large lots, or may be contained in a separate open space lot. Such open space may be owned by a homeowner's association, private landowner(s), utility company, a non-profit organization, or the Town or other governmental entity, as long as it is permanently protected from development by a conservation easement held by a unit of government or qualified conservation organization.

(1) Permanent Preservation by Conservation Easement

A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the New York State General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, may be granted to the Town, with the approval of the Town Council, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval. The conservation easement shall be recorded in the Columbia County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat in the County

Clerk's Office. The Town shall maintain a current map which displays all lands under easement or deed restricted.

The conservation easement shall limit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation). Access roads, driveways, wells, local utility distribution lines, underground sewage disposal facilities, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.

(2) Ownership of Open Space Land

Open space land shall under all circumstances be protected by a perpetual conservation easement, but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.

If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:

- (a) The HOA must be established before the approved subdivision Final Plat is signed, 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, private roads, 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 private roads.
- (e) Property owners must pay their pro rate share of the costs in subsection (2) (d) above and the assessment levied by the HOA must be able to become a lien on the property.
- (f) The HOA must be able to adjust the assessment to meet changed needs.

- (g) 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 Town. Such offer may be accepted by the Town, at the discretion of the Town Council, 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.
- (h) Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- (i) The attorney for the reviewing board shall find that the HOA documents presented satisfy the conditions in Subsections (a) through (h) above and such other conditions as the Planning Board shall deem necessary.

8. Reservations and dedications

a. Public sites, parks, playgrounds and recreational areas

The Planning Board shall require adequate, convenient and suitable areas for parks and playgrounds, or other recreational purposes, to be reserved on the plat, but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat "reserved for park, playground or recreational purposes." In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for parks, playgrounds and recreational areas cannot be properly located therein, or if in the opinion of the Board, is not desirable, the Board may waive this requirement. The Board shall then require the payment of a park fee in accordance with the Town's fee schedule.

b. Dedications

- (1) Where a dedication is required, it shall be accomplished as follows. The subdivider shall provide not less than 10% of the gross area of the subdivision as shown on the preliminary layout. Where such dedication would amount to less than 2 acres, the subdivider shall, in lieu thereof, pay a fee to the Town for each lot in his subdivision, to be computed as follows: average value of one (1) acre of undeveloped land adjacent to a public road within 1/4 mile of any point within that subdivision, divided by 50 dwelling units, equals the fees per lot.
- (2) Moneys received by the Town from such payments shall be placed in a parkland acquisition and development fund, such moneys to be expended for acquiring parklands.

c. Realignment or widening of existing streets

Where the subdivision borders an existing street and the Official Map indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the plat “reserved for street alignment (or widening) purposes.”

d. Utility and drainage easements

- (1) Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street. Such easements shall be centered on rear or side lot lines.
- (2) All subdivisions shall be related to the drainage pattern affecting the areas involved, with proper provision to be made for adequate storm drainage facilities. Storm drainage plans shall reflect potential surface runoff within the drainage area after development and shall comply with the requirements of the Town Engineer.
- (3) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width as to encompass the 25 year flood area of such watercourse.
- (4) Right-of-way for storm drainage must be sufficient for facilities to handle not only the anticipated discharge from the property being subdivided, but also the anticipated runoff that will occur when property at a higher elevation in the drainage basin is developed.

e. Easements for pedestrian access

The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least 20 feet in width.

f. Responsibility for ownership of reservations

Ownership shall be clearly indicated on all reservations.

G. Required Data and Documents

1. Compliance required

Any subdivider who proposes to develop a subdivision in the Town of Germantown shall submit plats and documents as provided in this Section.

2. General requirements

The following general requirements are applicable to the sketch plan, preliminary layout and the subdivision plat submittal.

- a. Sketch plans and plats shall be clearly and legibly drawn at an adequate scale to provide detail of 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of 100 acres or more.
- b. Drawings shall be submitted on uniform size sheets not larger than 36 x 48 inches. When more than one (1) sheet is required to show the plat, an index map of the same size shall be submitted.
- c. All submissions shall indicate the proposed subdivision name or identifying title; the words "Town of Germantown, Columbia County, New York"; the name and address and seal of the licensed engineer and land surveyor responsible for the plat; and the date, approximate true North point and graphic scale.

3. Resource Analysis Assessment Data and Documents

Pre-applications for a major subdivision shall be submitted to the Planning Board in 3 copies and shall include a resource analysis with the following information:

- a. The proposed subdivision name or identifying title, and the words "Town of Germantown, Columbia County, New York."
- b. The name of the property owner(s) and the authorized applicant, if different from the property owner(s).
- c. Aerial map at a scale of 1" = 400' or larger, showing the location of the proposed subdivision parcel with respect to all streets and property within 1,000 feet of the applicant's parcel and superimposed with 10' contours, NYSDEC wetlands, NWI wetlands, floodplains, streams, water bodies, NYSDEC Natural Heritage Program data, and public trails.
- d. A list including general location of features known to exist on the parcel including but not limited to historic buildings, stone walls, rock outcrops, significant trees and stands of trees, potential wildlife habitats and viewsheds. This list is a preliminary step in identifying natural features and is subject to modification and interpretation of the reviewing bodies.

- e. Provide an 8½ x 11 soils map indicating if Prime and/or Statewide important soils, as defined by the Soil Survey of Columbia County New York, exist on the property.
 - f. General subdivision information necessary to explain and/or supplement the Aerial Map.
4. SEQR Classification

New York State Environmental Quality Review (SEQR) classification should be determined by the Planning Board and discussed with the applicant at completion of the Pre-Application Meeting.

5. SEQR

The Planning Board shall initiate the New York State Environmental Quality Review Act (SEQR) process, as defined in Article 8 of the Environmental Conservation Law and Part 617 of the New York Code of Rules and Regulations, upon completion of the Sketch Plan phase of the Pre-Application process, and when a Preliminary Plat application is determined to be complete. The Planning Board shall review the short or full Environmental Assessment Form, and if applicable, the Draft Environmental Impact Statement submitted by the applicant with the Preliminary Plat application materials. The applicant shall be informed by the Board as to whether the application will be subject to additional environmental review as specified in the SEQR regulations. All requirements of SEQR shall be completed prior to any approval of the Preliminary Plat by the Planning Board.

6. Sketch Plan

The Sketch Plan should show the proposed layout of streets, lots and other major subdivision features based upon the resource analysis and density calculation including the following:

- a. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.
- b. A density calculation as outlined in Section F, Subsection 6, Lots.
- c. Sketch plan on a topographic survey of the proposed area to be subdivided showing, in simple sketch form, the proposed layout of streets, lots and other features.
- d. General subdivision information necessary to explain and/or supplement the vicinity map and sketch plan.

7. Preliminary plat

The preliminary plat submitted to the Planning Board shall be at an adequate scale to provide detail such as 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of 100 acres or more and shall extend an 200 feet past the parcel boundary and shall show or be accompanied by the following information, except where requirements have been waived:

- a. Data required by Section G, Subsection 3, Required Data and Documents
- b. The name of the property owner(s) and the authorized applicant, if different from the property owner(s).
- c. Tax number of all parcels to be subdivided.
- d. Location, bearings and distances of trace boundary.
- e. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.
- f. Topography at a contour interval of not more than 10 feet, unless waived by the Planning Board and referred to a datum satisfactory to the Board.
- g. The names of property owners within 200 feet of the property boundary, including those adjoining and those across roads fronting the proposed development. If the proposed development property is within an agricultural district containing a farm operation or within 500 feet of a farm operation located in an agricultural district, the applicant shall complete an Agricultural Data statement, in accordance with NYS Agriculture District Law, which shall contain the name and address of the applicant, a description of the proposed project and its location, and the name and address of all property owners within 500 feet of the property boundary.
- h. Location, name and dimensions of existing streets, easements, deed restrictions, zoning district boundaries, property lines, buildings, parks and public properties.
- i. Location of existing sewers, water mains, culverts and storm drains, if any, including pipe sizes, grades and direction of flow.
- j. Location of pertinent natural features such as watercourses, wetlands, floodplains, rock outcrops, stone walls, agricultural district lands, contiguous forest, and single trees 8 or more inches in diameter at breast height (dbh) as measured 4 feet above the base of the trunk.

- k. Location, width and approximate grade of all proposed streets with approximate elevations shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.
 - l. Proposed provision of fire protection, stormwater drainage, street trees, streetlight fixtures, street signs and sidewalks.
 - m. Proposed provision of sanitary waste disposal.
 - n. Proposed provision of water supply and related data including the following:
 - (1) Location of any existing wells onsite and other proposed lot wells.
 - (2) Copies of New York State Department of Environmental Conservation Well Completion Reports for completed well(s) (including the well log and pump test data).
 - (3) Any and all water quality testing results.
 - (4) Proposed individual water supply system details such as pumps, storage, treatment, controls, etc.
 - (5) A completed hydrogeological study, as may be required by the Planning Board at its discretion.
 - o. Lot lines of all proposed or existing lots, and suggested building envelopes.
 - p. Conceptual future plans for the parcel, if any.
 - q. Location and approximate dimensions of all property proposed to be reserved for park or public uses.
 - r. Information on all County and State permits required for subdivision plat approval.
 - s. Other approvals or permits required (Town, County, NYS, and Federal).
 - t. A written statement of any requests for specific waivers of requirements by the Planning Board.
 - u. Other data which must be available for consideration of the subdivision at this stage.
8. Final plat

The plat submitted to the Board shall show or be accompanied by the following information:

- a. Data required by Section G, Subsection 2, and Section G, Subsection 7, Preliminary Plat, subsections b through u.
- b. Location, width and name of each proposed street and typical cross sections showing street pavement and, where required, curbs, gutters and sidewalks.
- c. Lengths and deflection angles of all straight lines and radii: length, central angles, chords and tangent distances of all curves for each street proposed.
- d. Profiles showing existing and proposed elevations along the center line of all proposed streets and the elevations of existing streets for a distance of 100 feet either side of their intersection with a proposed street.
- e. Present elevations of all proposed streets shown every 100 feet at 5 points on a line at right angles to the center line of the street, said elevation points being indicated at the center line of the street, each property line and points 30 feet inside each property line (only when required by the Board because of the existence of steep slopes).
- f. Setback lines.
- g. Location, size and invert elevations of existing and proposed stormwater drains and sanitary sewers; the exact location of utilities and fire hydrants.
- h. Location of any existing wells onsite and other proposed lot wells and individual water supply system details such as pumps, storage, treatment, controls, etc.
- i. Location of street trees, street lighting standards and street signs.
- j. Areas of all lots in hundredths of an acre; lot numbers as directed by the Town Assessor; and location, material and size of all permanent monuments.
- k. Accurate location of all property to be offered for dedication for public use, with the purpose indicated thereon, and of all property to be reserved by deed covenant for the common use of the property owners of the subdivision.
- l. Sufficient data, acceptable to the Highway Superintendent, to readily determine the location, bearing and length of all street, lot and boundary lines and to reproduce such lines upon the ground.
- m. Necessary agreements in connection with required easements or releases.
- n. Formal offers of cession to the Town of all streets and public parks.

- o. Key map showing the location of the subdivision.

H. Required Improvements and Agreements

1. Completion of improvements or filing of bond required.

Prior to an action by the Planning Board approving a plat, the applicant shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the appropriate Town departments, all the street and other improvements specified in the action approving said plat or, as an alternative, to file with the Town Council a bond in an amount estimated by the Planning Board to secure to the Town the satisfactory construction and installation of the incomplete portion of the required improvements. All required improvements shall be made by the applicant at his expense without reimbursement by the Town or any district therein.

2. Performance bonds

Performance bonds shall comply with the requirements of Section 277 of the New York State Town Law and shall be satisfactory to the Town Council as to form, sufficiency and manner of execution. A period of one (1) year, or such other period as the Planning Board may determine appropriate, within which required improvements must be completed shall be specified by the Planning Board and expressed in the bond. The bond shall also provide that an amount determined adequate by the Planning Board shall be retained for a period of one (1) year after the date of completion of the required improvements to assure their satisfactory condition.

3. Required improvements

- a. Monuments. Monuments shall be placed at all block corners, angle points, points of curvature in streets and points of tangency or horizontal curves, and at intermediate points as required by the Town Engineer. However, in no case shall there be less than 4 permanent monuments per block. At least one (1) monument in each subdivision shall be related to the United States Geological Survey system and shall bear the true elevation above sea level. In addition, markers shall be placed at all points when street lines intersect the plat boundary and at all lot corners. The monuments and markers shall be of such material, size and length as may be approved by the Town Engineer.
- b. Water and sewerage facilities. Facilities for water and sewerage shall be provided in each new subdivision in accordance with the requirements of the appropriate agency having jurisdiction over the planning and installation of these in the area of the subdivision; however, the following minimum requirements of the Town shall be met:

- (1) Existing and proposed wells are located at minimum separation distances from on-site and off-site potential sources of contamination as specified in Appendix 5-B of 10 NYCRR Part 5.
- (2) Supply suitability. A representative number of well(s) indicate that the available quantity and quality of on-site groundwater resources are suitable for household purposes.
- (3) Adverse impacts. For proposed subdivisions requiring a hydrogeological study, the determination has been made that the subdivision avoids adverse impacts to existing or future groundwater users and/or surface waters within 1,500 feet of the subdivision. If adverse impacts cannot be avoided, the applicant must provide adequate mitigation of such impacts. For purposes of this Article, an adverse impact to ground water can be defined as any reductions in groundwater levels or changes in ground water quality that limit the ability of a ground water user to withdraw ground water. An adverse impact to surface water would be any reductions in the level of flow or water quality needed for beneficial uses such as protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, cultural and aesthetic values, drinking water supply, agriculture, electric power generation, commercial, and industrial uses.
- (4) Central water supply system shall be designed with adequate pressures, mains and fire hydrants to meet Association of Fire Underwriters' specifications for a Class C protected area.
- (5) All water mains shall be at least 6 inches in diameter.
- (6) Sanitary sewers shall not be used for stormwater drainage.
- (7) Central sewerage system shall provide a 4" minimum size connection to each lot.

c. Storm drainage facilities

- (1) Regulation. The New York State Department of Environmental Conservation (NYSDEC) regulates stormwater management practice installation under SPDES General Permit GP-02-01. The technical standards for stormwater practice design are in the New York Stormwater Management Design Manual.
- (2) Drainage. The NYSDEC's, *Reducing the Impacts of Stormwater Runoff from New Development*, should be consulted. A primary goal is to ensure that the peak rate of surface water flowing off site shall not increase above predevelopment conditions, and shall not adversely affect drainage on adjacent properties or public roads.

(3) General design

- (a) Preferred runoff pattern. Preferred design of streets and grading in relation to storm drainage shall be such that runoff from roofs, driveways and other impervious surfaces will be collected in the ditches and/or gutters along the street in short runs [300 or 400 feet] and will then be diverted from the surface into storm sewers or natural watercourses unless storm sewers are to be installed.
- (b) Downstream disposal. Subdivision and development of an area increases and concentrates the runoff of stormwater from the area. Applicants are warned that such increase may cause flood or erosion damage to undeveloped properties lying downstream. Storm drainage channels opening on unimproved land shall empty into natural watercourses unless suitable agreement is reached with the owner of the downstream property for another method of handling. In any instance, the disposal of storm drainage downstream shall be satisfactory to the Planning Board as advised by the Town Engineer.
- (4) Open Water courses. The use of open watercourses for drainage may involve problems relating to safety, erosion control, stagnant water, protection of capacity and appearance, all of which shall be given adequate attention by the developer as follows:
 - (a) Safety. Broad, shallow courses shall be created wherever necessary to increase capacity or eliminate steep banks, except in those areas where natural conditions are such that erosion of banks will not occur. Ditches shall, wherever feasible, be in the shape of a wide-top “V” with rounded or squared invert.
 - (b) Erosion control. Adequate measure shall be taken to prevent erosion. The Planning Board shall require seeding, sodding, planting, riprap or such other measures as may be necessary to prevent scouring.
 - (c) Drainage. The developer shall avoid the creation or continuation of swampy areas or stagnant pools. The Planning Board shall require fill and/or channel improvements in order to forestall such problems.
 - (d) Protection of capacity. The developer shall provide adequate measures for the protection of open drainage channels by establishing drainage easements sufficiently wide [generally 20 feet] to enable the working of the channel by motorized equipment, or, alternately, where authorized by the Planning Board, a center block park of a minimum width of 50 feet. All easements shall prohibit the erection of structures, the dumping of fill or the alteration or obstruction of the watercourses

without the written permission of the Town Council. Property lines shall be so drawn as to allow drainage easements alongside and rear lot lines, except that drainage easements may be allowed to cross lots larger than 1 acre.

- (e) Appearance. As natural watercourses can be an attractive asset to the subdivision as well as to the community, the developer shall, where possible, improve and beautify the watercourses to this end.

(5) Design of storm sewers

- (a) Size and grade. Storm sewers shall have a minimum diameter of 12 inches and a minimum grade of 0.5%.
- (b) Manholes. Manholes shall not be more than 300 feet apart where pipe sizes of 24 inches or less are used, and not more than 540 feet apart where larger sizes are installed.
- (c) Change in direction. Special sections with radii of 10 to 15 feet shall be installed where abrupt changes are made in alignment.

(6) Design of ditches and gutters

- (a) Length of flow. Subdivisions shall be so designed that the length of flow of water in a gutter or roadside ditch does not exceed 300 feet, except as permitted by the Planning Board. Runs exceeding the maximum shall be put in storm sewers or diverted to natural drainageways.
- (b) Minimum grade. All enclosed drainage courses shall be designed with sufficient grade to create a water flow velocity of 3 feet per second. A lesser grade may be permitted by the Planning Board where such a grade cannot be achieved.
- (c) Street crossing. Water in gutters and ditches shall not be allowed to flow over intersecting streets but shall be placed in adequate culverts.
- (d) Depth and shape of ditches. Where roadside ditches are permitted for runs of more than 300 feet, or where subgrade drainage is necessary, the bottom of such ditch should be below the subgrade and/at a minimum, should be approximately 18 inches below the crown of the road. Ditches shall be V-shaped or parabolic with sides sloping at approximately 1 inch to 3 inches horizontal, except where another cross-section plan is authorized.

- (7) Erosion control. Suitable headwalls, endwalls, ditch seeding or sodding and other procedures or devices to prevent erosion shall be used. Town soil and erosion control regulations should be referenced.

d. Street and other improvements

- (1) Streets shall be graded and improved with pavement, street signs, sidewalks, street lighting standards, curbs, gutters, trees, water mains, sanitary sewers, storm drains and fire hydrants, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers not requisite in the interest of public health, safety and general welfare.
- (2) Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of the lines, the subdivider shall install underground service connections to the property line of each lot before the street is paved. Utility location should take into consideration the location of future street trees so as to minimize the risk of future disturbance of trees during repair activities.
- (3) Grading and improvements shall conform to the Town minimum road specifications and shall be approved as to design and specifications by the Town Superintendent.

4. Inspection

The Town may employ an inspector to act as agent of the Planning Board for the purposes of assuring the satisfactory completion of improvements required by the Planning Board, and shall determine an amount sufficient to defray costs of inspection. The applicant shall pay the Town costs of inspection before the subdivision plat is signed for filing. If the Planning Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved drawings, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications.

5. Public utilities

The Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time, in accordance with the approved plat.

ARTICLE XI: NON-CONFORMING LOTS, USES AND STRUCTURES

A. Purpose

The purpose of this Article is to regulate nonconforming uses, nonconforming buildings and structures and nonconforming lots of record. The zoning districts established by this Law are designed to guide the future use of the Town's land by encouraging the development of desirable residential, commercial and other uses with appropriate groupings of compatible and related uses to promote and protect the public health, safety and general welfare. The regulations of this Article are intended to restrict further investments that would make nonconformities more permanent in their location in inappropriate districts as well as to afford opportunities for creative use and reuse of those other nonconformities that contribute to a neighborhood and are consistent with the goals of the Comprehensive Plan.

B. Continuation of nonconforming uses and structures

1. The lawful use of any structure or land existing at the time of the enactment of this Law may be continued although such use does not conform to the provisions of this Law except as provided in Article VII, Section G, Signage.
2. Any building or structure, for which a valid building permit was lawfully issued prior to the adoption of this Law, may be completed and used in accordance with the plans and specifications for such building or structure.
3. Any pre-existing legal use which is allowable by Special Use Permit under this Law, but which has not been issued a Special Use Permit, shall be considered a permitted use. The expansion of such a use, other than a single-family or two-family residence, shall require Site Plan approval, unless such expansion has been permitted by a prior site plan approval.

C. Discontinuance

1. Whenever a structure or land used for or occupied by a non-conforming use has been discontinued for a period of one (1) year, such use shall not thereafter be used or occupied as a non-conforming use except as provided in Section D.
2. A nonconforming use shall be deemed to have been discontinued if it is changed to a conforming use.

D. Re-establishment

1. The Planning Board may issue a Special Use Permit for the re-establishment of a non-conforming use after the one-year period has expired if the applicant has been prevented from continuing the use during the one-year period due to strikes, natural disasters, disability, or other similar hardship beyond the applicant's control. In acting on such Special Use Permit, the Planning Board, shall to the extent practicable, apply

the current supplemental regulations, design standards and landscaping and buffering which apply to such use.

2. A non-conforming structure or use may be rebuilt in the event of its total or partial destruction caused by fire, flood, wind or other natural or manmade disaster, provided that the structure occupy the same or a lesser footprint including bulk and area, and may not exceed the original height of the totally or partially destroyed structure. The structure may be rebuilt 30% larger if the structure meets the setback requirements of this Law. Such rebuilding shall require Site Plan review by the Planning Board. The restoration or rebuilding shall be commenced within 6 calendar months of such occurrence and be completed within 24 calendar months.

E. Improvements and Expansions

1. A non-conforming use or structure shall be maintained and shall not constitute a danger to the health, safety or general welfare of the public.
2. A non-conforming use or structure may be enlarged or extended on a lot or land occupied by such use or structure, except that such enlargement or extension shall not exceed 30% of the existing capacity on the effective date of this Law.
3. Replacement or Expansion of Nonconforming Manufactured Homes
 - a. With the issuance of a Special Use Permit, an individual manufactured home in existence at the time of adoption of this Law may be replaced with another manufactured home that shall meet the minimum requirements of Article VI, Section L(3), Replacement of Individual Manufactured Homes.
 - b. The structure and facilities of an existing non-conforming manufactured home may be improved and shall be considered a continuation of such nonconforming use, except that there shall not be an expansion of habitable space.

F. Existing Undersized Lots

Lots of record at the time of effective date of this Law whose size or depths are less than the specified minimum requirements set forth herein shall be deemed to meet the minimum size regulations of this Law. No new lot shall be created which does not meet the minimum lot size regulations of this Law.

ARTICLE XII: SPECIAL USE PERMITS

A. Purpose

Under these regulations, special uses are considered to be uses which may be appropriate in the district in which they are located, but which possess special characteristics which may pose land use or nuisance concerns or difficulties if controlled only by the district regulation applicable to permitted uses.

Accordingly, such uses are further controlled by a procedure which requires special consideration and may include additional regulations for each such use in order to mitigate any such problems or difficulties and minimize the impact upon the district. Each use warrants consideration as an individual case in the district and on the specific lot on which it is proposed to be located. Granting of a special permit for a special use in a zoning district shall be based on its own unique facts and circumstances and shall not establish any precedent for granting of a special permit for the use or any other special permit use on any other lot in the district or in other districts.

B. General Procedures and Provisions

1. All uses of land listed in Schedule A as uses permitted with a Special Use Permit shall be allowed upon issuance of a Special Use Permit by the Town Planning Board.
2. All special use permit review and approval shall occur as a part of any applicable Site Plan review. Applicants shall refer to Article XIII, Site Plan Review, for application content.
3. Site Plan approval is required in the consideration of those special use permit uses involving new construction, or any land development activities not specifically exempted by Article XIII, Site Plan Review. Such Site Plan Review shall be carried out either in conjunction with or after, these special use permit procedures.
4. Procedures for Special Permits not requiring Site Plan Review
 - a. In cases where special use permits involve the conversion of an existing structure from one use to another with no exterior physical changes to the site or structure, or which involve only those activities exempt from Site Plan Review, a request for special use permit shall be submitted on an application form available at the Town of Germantown Code Enforcement Office.
 - b. Each application shall be accompanied by a fee as established by resolution of the Town Council to help defray the cost of handling the application, no part of which is refundable.
 - c. Applications shall be submitted to the Code Enforcement Officer, who shall then transmit to the Planning Board.

C. Special use review criteria

The Planning Board shall consider the following general criteria when making a determination for a Special Use Permit:

1. The physical characteristics, topography and other features of the lot and the scale and physical design and other features of any new or existing buildings to be occupied by the use are suitable and adaptable for the proposed use without any modifications which would change the established character of the street or neighborhood setting.
2. The nature and intensity of operations of the use will not be more objectionable to surrounding properties than those of a permitted use. Examples of measures of potential impacts due to the nature and intensity of development include, but are not limited to, traffic generation, hours of operation, size and scale, noise, odor, dust, vibration, glare, smoke and environmental hazards.
3. The use is not in such proximity to a religious facility, school, community center, recreation place, or other prominent place of community activity and public assembly so as to regularly conflict with such other activity and thereby constitute a danger to health, safety or general welfare.
4. The use will not unreasonably increase or introduce traffic congestion or safety hazards or impose traffic volumes on streets and street patterns which are deficient in width, design, sight distance, intersection configuration, or other typical standards necessary to accommodate such traffic changes.
5. The use makes adequate provision for off-street parking in accordance with this Law.
6. The use and the proposed design of the building and other structures and site facilities for the use are appropriate in the proposed location and have incorporated reasonable efforts to harmonize with surrounding uses and mitigate any adverse impacts on surrounding uses, including but not limited to, traffic congestion and hazards, untimely scheduling of activities, removal of trees and other established natural features, and excessive storm-water runoff, noise, nuisance, odors, glare or vibration.
7. The cumulative impacts of the use in the proposed location will not unreasonably interfere with or diminish the continued use, preservation, stability, value, enjoyment, prosperity or growth of the neighborhood or community. In evaluating cumulative impacts the Planning Board will consider the proximity of other special permit uses, particularly those similar to the use proposed.
8. The use will not conflict in any way with the Town of Germantown Comprehensive Plan and other adopted Town plans.

D. Notice and hearing

1. Upon the filing of an application for a special use, the Planning Board shall set a reasonable time and place for a public hearing to consider the application. If the

public hearing is to be concurrent with the public hearing required for Site Plan Review, only one advertisement notice is needed.

2. A notice shall be published at least 5 days prior to the hearing in at least one newspaper of general circulation within the Town. Each notice shall include the time, date, place, purpose of the hearing and location of the subject proposal.

E. Referrals

Where the consideration for a special use permit involves land within 500 feet of an adjoining municipality, or from the boundary of any existing or proposed county or state park, or from the right-of-way of any existing or proposed state or county highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county, or state or county-owned land on which a public building is situated, the application shall be referred to the Columbia County Planning Board at least 30 days before the public hearing and acted upon in accord with the provision of Section 239 of New York State General Municipal Law.

F. Decision and notification

1. The Planning Board shall not issue a Special Use Permit unless it makes a recorded finding that the proposed use will satisfy the criteria set forth in Section C above. In order to reach positive findings in support of the Special Use Permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined in Section C above and include the facts and reasons upon which such denial was based.
2. Within 62 days from the date of any public hearing, the Planning Board shall render a decision. For purposes of this section, a decision shall be deemed “rendered” upon the written permit being signed by the Chairman. Not later than 5 days following the rendering of the decision of the Planning Board granting or denying the application, the applicant and parties of record shall be notified of the decision in writing. Such written notification shall include the findings of fact for denial or approval, whichever is applicable.
3. The Board shall file the decision in the Town Clerk’s Office within 5 business days after the day it is rendered. The Planning Board will also retain in its files a copy of each decision, which files shall be available for inspection by the public.

G. Special use permit restrictions, expiration, revocation and enforcement

1. A Special Use Permit shall pertain only to the specific property for which the application was made. Such granted permit does not apply to any other property the applicant may control.

2. A Special Use Permit shall be deemed to authorize only the particular special use or uses specified therein.
3. A conditional Special Use permit approval shall expire at the end of 6 months if the conditions have not been satisfied. The Planning Board may, however, consent to an extension of up to 6 additional months.
4. A Special Use Permit may be issued as:
 - a. Permanent, except where the permitted use is discontinued for any reason for a period of 2 years or more.
 - b. Temporary, to cease on a specified date and not to be renewable.
 - c. Renewable within a specified period of time set by the Planning Board.
5. A special use permit may be revoked by the Planning Board if the conditions of the Special Use Permit are violated.
6. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this Law and shall be subject to enforcement action as provided herein.
7. All Special Use Permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.
8. A Special Use Permit authorization by the Planning Board for the issuance of a building permit shall expire within 90 days of such authorization in the event that such permit shall not be applied for within such 90 day period.

ARTICLE XIII: SITE PLAN REVIEW

A. Land use activities requiring review

1. Site Plan approval by the Planning Board shall be required for all new permitted land use activities listed on Schedule A: Permitted Uses except for the following uses and activities which shall be exempt from Site Plan approval:
 - a. A change of use that shall not result in a new, altered or expanded structure.
 - b. Construction of seasonal or four season Single-Family Dwellings and Two-Family Dwellings.
 - c. Installation of individual Manufactured Homes (excludes manufactured home parks).
 - d. Construction of agricultural structures with a gross floor area of less than 10,000 square feet.
 - e. Ordinary landscaping or grading that is not conducted in connection with land use reviewable under the provisions of this Law.
 - f. Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - g. Surface parking increase of up to 4 additional spaces.
2. Site Plan review shall be included as an integral part of the Special Use Permit approval process and no separate Site Plan approval shall be required for uses requiring a Special Use Permit.
3. Site Plan approval shall also be required for any development which is the functional equivalent of a land subdivision but which is structured for ownership purposes as a condominium project. In such cases, the Planning Board shall apply all relevant review criteria contained in Article X, Subdivision of Land, as well as the provisions of this Article.
4. Site Plan approval shall be included as an integral part of the license approval process for a manufactured home park.

B. Site Plan review procedures

1. Application for Site Plan approval shall be made to the Planning Board using forms supplied by and delivered to the Code Enforcement Officer.

2. Prior to formal submission of a detailed site plan, there shall be a conceptual sketch plan conference with the Code Enforcement Officer and the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required in order to have a complete application. At the sketch plan conference, the applicant should provide the data discussed below in addition to a statement or sketch describing what is proposed:
 - a. Name and address of applicant and authorization of owner, if different from applicant.
 - b. Name and address of owner(s) of record, if different from applicant.
 - c. Name and address of person or firm preparing the plan and map.
 - d. An area map at an appropriate scale showing the parcel under consideration for Site Plan review, and all properties, subdivisions, streets and easements within 400 feet of the boundaries of the parcel under consideration.
 - e. A map of site topography of at least 2 foot contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding or ponding, a soil's overlay on the topographic map is recommended.
 - f. All existing structures, wooded areas, streams and other significant physical features, with the portion to be subdivided.
 - g. All the utilities available, and all streets which are either proposed, mapped or built.
 - h. Aerial photograph at an appropriate scale showing the parcel under consideration for Site Plan review and all properties within 400 feet of the boundaries of the parcel under consideration.
3. The Code Enforcement Officer or the Planning Board may request additional information including any of the items listed in the checklist below. The Code Enforcement Officer and the Planning Board are not limited to this list and may request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Code Enforcement Officer or the Planning Board will consider the type of use, its location, and the size and potential impact of the project.
4. The Planning Board may require that any plans required as part of a Site Plan application as described in Subsection 7 below be stamped by a licensed professional land surveyor, engineer, architect, landscape architect or other appropriate licensed professional as applicable.

5. The Planning Board may request that conceptual elevation drawings of proposed structures be included in the Site Plan application.
6. After the conceptual Sketch Plan Review with the Planning Board, the applicant shall provide multiple copies of the application for Site Plan review to the Code Enforcement Officer accompanied by information drawn from the following checklist and Subsections 4 and 5 above, as determined necessary by the Planning Board at the sketch plan conference. Plans may be required to be submitted electronically in GIS or CAD format. In addition to the Site Plan drawings, the applicant shall submit:
 - a. A long-form Environmental Assessment Form or Draft Environmental Impact Statement (DEIS).
 - b. The Site Plan application fee, as established by the Town Council, and any required escrow deposit for review costs, as required by the Planning Board.
5. Site Plan checklist:
 - a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - b. North arrow, scale and date.
 - c. Boundaries of the property plotted to scale.
 - d. Existing watercourses, wetlands and floodplains.
 - e. Description or map illustrating soils.
 - f. Grading and drainage plan, showing existing and proposed contours.
 - g. Location, design, type of construction, proposed use and exterior dimensions of all buildings.
 - h. Location, design and construction materials of all parking and truck-loading areas, showing access and egress.
 - i. Provision for pedestrian access including sidewalks and street furniture.
 - j. Location of any outdoor storage, loading areas and/or dumpsters.
 - k. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 - l. Description of the method of sewage disposal and location, design and construction materials of such facilities.
 - m. Description of the method of securing potable water and the location, design and construction materials of the facility that will supply that water.

- n. Location of fire and other emergency zones, including the location of fire hydrants.
- o. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- p. Location, size and design and construction materials of all proposed signs as required by Article VII, Section G.
- q. General landscaping plan and planting schedule as required by Article VII, Section C, including the location and proposed development of all buffer areas, including existing vegetative cover.
- r. Location and design of outdoor lighting facilities.
- s. Designation of the amount of building area proposed for retail sales or similar commercial activity.
- t. An estimated project construction schedule and phasing sequences.
- u. Record of application for and approval status of all necessary permits from state, federal and county officials.
- v. Identification of any federal, state or county permits required for the project's execution.
- w. Impacts on groundwater including the following:
 - (1) The proposed means of storage, distribution, use, treatment, and/or disposal of wastewater, other wastes, chemicals, etc;
 - (2) The proposed means of water supply, including if applicable an estimate of the total daily groundwater withdrawal rate;
 - (3) The location(s) of all public water systems and other groundwater users within 1,500 feet of the proposed development boundaries;
 - (4) A list of all petroleum, chemicals, pesticides, fuels and other hazardous substances/wastes to be used, generated, stored, or disposed of on the premises;
 - (5) A description of the pollution control measures proposed to prevent ground water or surface water contamination; and
 - (6) A statement as to the degree of threat to water quality and quantity that could result if the control measures failed.
- w. Other elements to the proposed development as considered necessary by the Planning Board, including, within reason, engineering plans to illustrate grading plan, public or private utilities systems and such other supporting data as may be necessary.

6. Additional Requirements. In addition to the above, the Planning Board may require the applicant to submit additional information to aid in rendering a decision. Additional information may include, but is not limited to:
 - a. Traffic study to show impact of project on existing traffic patterns.
 - b. On-site testing for water quantity and/or quality.
 - c. Study to review the potential for air pollution when a use is identified as releasing possible pollutants.
 - d. Preparation of a Visual Impact Assessment (VIA) for the project using as guidance New York State Department of Environmental Conservation's Visual Policy, "Assessing and Mitigating Visual Impacts, DEP-00-2" as part of compliance with the State Environmental Quality Review Act (SEQRA).
 - e. Study to indicate the project's impact adjacent watercourses in regard to increased water runoff and/or release of effluent to a nearby stream.
 - f. Project's impact on existing public services such as ambulance services, fire service, hospitals, utilities and schools.
 - g. Hydrogeological study to determine the adequacy of the water supply and impacts on ground water. The requirements of a hydrogeological study are included in Appendix B.

C. Application for Area Variance

Where a proposed Site Plan contains one or more features which do not comply with the dimensional regulations of this Law, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article XIV, Variances and Appeals of this Law without a decision or determination by the Code Enforcement Officer.

D. SEQRA Compliance

Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this Law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

E. Planning Board review

1. General criteria. The Planning Board's review shall include, as appropriate, but not limited to, the following criteria:
 - a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - b. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - c. Location, arrangements, appearance and sufficiency of off-street parking and loading as required by Article VII, Section E.
 - d. Location, arrangement, size, design and general site compatibility of buildings as required in Article VII, Section A, Building Design Standards.
 - e. Adequacy of stormwater and drainage facilities.
 - f. Adequacy of water supply and sewage disposal facilities.
 - g. Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
 - h. Compliance with the lighting standards of Article VII, Section D, Outdoor Lighting Standards, of this Law.
 - i. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation as required in Article VII, Section C, Landscaping and Screening standards.
 - j. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - k. Adequacy of protection of the Town's natural resources including the following:
 - (1) The Hudson River, the Roeliff-Jansen Kill and other water courses
 - (2) Wetlands identified on the United States Fish and Wildlife Service National Wetland Inventory or NYSDEC Article 24 protected Wetlands Maps
 - (3) Prime agricultural soils
 - (4) Steep slopes (slopes greater than 25%) that are susceptible to erosion due to ground disturbance
 - (5) Scenic viewsheds

- l. Adequacy of protection for and compatibility with any adjacent historic resources as identified by the Town and the New York State and Federal Registers of Historic Places.
- m. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

F. Planning Board action

1. Notices and referrals. Applications which meet the criteria of Sections 239-l and 239-m of the New York State General Municipal Law regarding referral to the County must be sent to the County Planning Board prior to the Planning Board decision. Applications that meet the criteria of 239-nn shall notify neighboring municipalities. A detailed description of these required notices is located in Article XV, Administration and Enforcement of this Law.
2. Public Hearings. The Planning Board may conduct a public hearing on the site plan. Such hearing shall be held within 62 days of the date that the Planning Board determines that the application for Site Plan review is complete and shall be advertised in the Town's official newspaper or, if there is none, in a newspaper of general circulation in the Town at least 5 days before the public hearing.
3. Planning Board Decision
 - a. Within 62 days of the public hearing, the Planning Board shall make a decision unless the period is extended by mutual agreement between the applicant and the Planning Board.
 - b. A copy of the decision shall be immediately filed in the Town Clerk's office and mailed to the applicant. A resolution of either approval or approval with modifications and/or conditions shall include authorization to the Planning Board Chairman to stamp and sign the Site Plan upon the applicant's compliance with applicable conditions and the submission requirements stated herein.
 - c. If the Planning Board's resolution includes a requirement that modifications be incorporated in the Site Plan, conformance with these modifications shall be considered a condition of approval. If the Site Plan is disapproved, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after it has been revised or redesigned.
 - d. The Planning Board's decision shall be provided to the Code Enforcement Officer.

G. Performance Guarantee

To ensure the completion of required improvements; such as but not limited to roads, landscaping, or other improvements required by the Planning Board, the applicant may be required to post performance bond(s) or other form of security pursuant to cover the full cost of the infrastructure and improvements as estimated by the Planning Board or designated Town department in accordance with the procedures provided for in Section 274-a, Subsection 7 and Section 277, Subsection 9 of New York State Town Law. A period of one (1) year (or such other period as the Planning Board may determine appropriate, not to exceed 3 years) shall be set forth in the bond within which required improvements must be completed.

ARTICLE XIV: VARIANCES AND APPEALS

A. Organization and General Procedures of Zoning Board of Appeals

1. A Zoning Board of Appeals (“Board”) is hereby created in accordance with Section 267 of New York State Town Law.
2. The Board shall consist of 5 members.
3. The Board shall prescribe rules for the conduct of its affairs.
4. The Board shall appoint a secretary.
5. All meetings of the Board shall be open to the public. A quorum shall consist of 3 members.
6. Every decision by the Board shall be by resolution and shall contain a full record of the findings of the Board in the particular case.

B. Powers and Duties of the Zoning Board of Appeals

The Zoning Board of Appeals shall have all the power and duties proscribed by this Law which are more particularly specified as follows:

1. Interpretation of the Zoning Law or Map

Upon appeal from a decision by the Code Enforcement Officer or on request by any official or board of the Town, the Board shall decide any question involving the interpretation of any provision of this Law.

2. Variances

The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant variances, as follows:

- a. Use Variances

A use variance is an authorization by the Zoning Board of Appeals that allows a specified use in a zoning district where such specified use is not allowed. No such use variance shall be granted by a 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 to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

- (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) That the alleged hardship has not been self-created.
- (5) The Board, 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.

b. Area variances

An area variance is an authorization by the Zoning Board of Appeals that allows a departure from the requirements of this Law. Area variances include any departure not covered by a use variance (for example, lot size, yard sizes and number of parking spaces). In making its determination, on an area variance application the Board 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:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) Whether the requested area variance is substantial;
- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (6) The Board, 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.

c. 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 Law

and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

C. Application to the Zoning Board of Appeals

1. Appeals from decisions made by the Code Enforcement Officer shall be filed in the municipal office Code Enforcement Officer in a form required by the Board.
2. All applications for variances shall be made in a form required by the Board, and shall be accompanied by payment of a filing fee as established in the Fee Schedule which have been promulgated by the Town Council and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
3. The Board shall identify each application or appeal by a sequential numbering system and alphabetically by the applicant's name. These files shall be available for public inspection.

D. Public Hearings and Notices

1. The Zoning Board of Appeals shall hold a public hearing on all appeals or applications within 62 days of filing of a complete and proper appeal or application. Notice of the public hearing shall be provided in the following manner:
 - a. The public hearing shall be advertised by the Board in the newspaper of general circulation in the Town at least 10 days before the public hearing.
 - b. At the cost of the applicant, the Board shall send a notice by certified mail to the owners of properties within 300 feet of the property affected by the proposed application, including properties on the opposite side of the street or highway.
 - c. If the land involved in an application is within 500 feet of the boundary of any other municipality, the Board shall mail a notice of the public hearing to the municipal clerk of such other municipality.
 - d. The applicant shall be required to erect a sign which shall be predominantly displayed on the premises facing each public street on which the property abuts, giving notice that an application for an appeal is pending and the date, time and place where the public hearing will be held. The sign shall be displayed for a period of not less than 10 days immediately preceding the public hearing date or any adjournment date. The applicant shall file an affidavit that he or she has complied with the provisions of this section. The sign shall meet the following standards:
 - (1) It shall be made of durable material and shall be furnished by the Town Clerk.
 - (2) It shall be white-with-black-lettering.
 - (3) It shall measure not less than 2 feet long by one (1) foot wide.

- (4) It shall not be set back more than 10 feet from the property or street line and shall be not less than 2 nor more than 6 feet above the grade at the property line.
- e. Where an appeal for a variance involves land within 500 feet of an adjoining municipality, or from the boundary of any existing or proposed county or state park, or from the right-of-way of any existing or proposed state or county highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county, or state or county-owned land on which a public building is situated, the appeal shall be referred to the Columbia County Planning Board at least 30 days before the public hearing and acted upon in accord with the provision of Section 239 of New York State General Municipal Law.

E. Zoning Board of Appeals Decisions and Notification

1. All decisions of the Zoning Board of Appeals shall be recorded in the form of a written resolution and shall contain the basis for the decision of the Board and a detailed summary of the facts upon which the determination was rendered. In the case of variances, the decision shall state whether or not the standards set forth in Section B of this Article and Section 267-b of New York State Town Law for unnecessary hardship (Use Variances) or practical difficulty (Area Variances), as the case may be, have or have not been met and such determination shall be supported by findings of facts thereby warranting the reversal or affirmance of the Code Enforcement Officer. The decision shall also state in detail what conditions and safeguards are required.
2. The 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. The Board shall keep records of its examinations and official actions all of which shall be filed in the Town Clerk's office and shall be a public record.
3. If a use variance is granted for a use requiring Site Plan review, the applicant shall obtain site plan approval from the Planning Board prior to commencing the use or obtaining a building permit or zoning permit.
4. Building permits authorized by the Board on variances cases shall be obtained within 120 days and shall automatically expire if construction under the permit is not started within 120 days of issuance and completed within one (1) year. Extensions of these periods may be granted by the Board where cause is shown.

ARTICLE XV: ADMINISTRATION AND ENFORCEMENT

A. Powers and Duties of Code Enforcement Officer

1. It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Law and other applicable local, state and federal laws.
2. Should the Code Enforcement Officer be in doubt as to the meaning or intent of any provisions of this Law, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a Building Permit, Zoning Permit or Certificate of Occupancy in a particular case related to the provisions of this Law, the Code Enforcement Officer shall appeal the matter to the Zoning Board of Appeals for interpretation or decision.

B. Zoning and Building Permits

1. Applicability
 - a. A Zoning Permit shall be required for the construction or alteration of a sign, the establishment of a major home occupation as defined in the Law, the conversion or change in use of any existing building, structure, or parcel of land to verify that such use is in accordance with this Law. If a change of use involves the construction, alteration or expansion of a structure, only one combined Zoning and Building Permit shall be required.
 - b. A Building Permit shall be required for the erection, construction, enlargement, alteration, replacement, demolition, or removal of any building or structure exceeding 100 square feet.
 - c. No building permit shall be required for any alteration of or ordinary repairs to an existing building or structure which is not structural in nature, and which is not intended to or does not provide for a new or extended use of the building, structure or premises.
 - d. In the case of emergency action to deal with damage from fire or other casualty, the applicant may commence construction required to stabilize a structure without a building permit. In order to protect the safety of persons entering such a structure to stabilize it, a permit shall be applied for as soon as possible and in no event more than one (1) week following such fire or casualty.
 - e. Nothing in this Law shall require any change in the plans, construction or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this Law or any amendment thereto affecting such building or structure, or the use thereof, provided that:
 - (1) The construction of such building or structure shall have been begun and diligently prosecuted within 3 months from the date of such permit.

(2) The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based, within one (1) year from the effective date of this Law or any such amendment thereto.

(3) In the event that either condition is not complied with, such building permit shall be revoked by the Code Enforcement Officer.

2. Steps to obtain Zoning and/or Building Permits

- a. Any person intending to undertake a change in use of a building, or any new construction, structural alteration of a building or lot exceeding 100 square feet shall apply to the Code Enforcement Officer for a building permit or zoning permit by submitting the appropriate application form and paying the required fee as established by the Town Council.
- b. The Code Enforcement Officer shall grant or deny the permit as provided, or refer the application to the Planning Board if a Special Use Permit and/or Site Plan approval is required.
- c. If a building or zoning permit is issued, the applicant may proceed to undertake the action permitted upon submission of any required fee as established by the Town Council. Upon completion of any construction, the applicant shall apply to the Code Enforcement Officer for a Certificate of Occupancy (for building permits only).
- d. If the Code Enforcement Officer finds that the applicant's action has been taken in accordance with the building permit, the Code Enforcement Officer shall issue a Certificate of Occupancy, allowing the structure to be occupied.
- e. If the Code Enforcement Officer denies a building or zoning permit and does not refer the application to the Planning Board or Town Council, the applicant may appeal to the Zoning Board of Appeals.

3. Application for a Zoning and/or Building Permit

- a. All applications for a Building and Zoning permit shall be made on prescribed forms provided by the Code Enforcement Officer and shall include the required application fee as established by the Town Council and 2 copies of the following information:
 - (1) Land: A description of the land on which the proposed use or construction will occur, including deed and filed map references, lot numbers and tax parcel numbers.
 - (2) Use, occupancy: A statement of the existing and proposed use of all parts of the land and the location, character and existing and proposed use of any existing or proposed buildings or structures; including the number of floors, entrances, rooms, type of construction and the kind and extent of any exterior horizontal extension proposed toward any boundary or street line of the lot.

- (3) Identity of owner, applicant: The full name and address of the owner and of the applicant, and the names and addresses of their responsible officers if any of them are corporations.
 - (4) Description of work or changes in use: A brief description of the nature of the proposed work or change in use.
 - (5) Valuation of work: The valuation of the proposed construction work, if any.
 - (6) Plans and Specifications: In addition to the requirements of subsection 2(a) above, each application for a building permit shall be accompanied by 2 copies of plans and specifications, including a map, survey (if applicable), site development or plot plan, drawn to scale, showing the courses, dimensions and detail of all the boundary lines of the proposed lot of occupancy and the adjacent street boundaries.
- b. Applications for a building permit for the construction of a new structure or expansion of an existing structure equal to 1,500 gross square feet or more shall require plans and specifications that shall bear the signature of the person responsible for the design and drawings and where required by the Education Law or any other applicable statutes, laws, rules or regulations of the State of New York, the seal of a licensed architect, licensed professional engineer or licensed landscape architect.
 - c. The Code Enforcement Officer may waive one or more of the requirements of this Article for minor alterations, as defined in the New York State Uniform Fire Prevention and Building Code.
 - d. Additional information: Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance of the proposed work or change in use with the requirements of this Law.
4. Action upon Zoning and Building Permit Applications
- a. The Code Enforcement Officer shall promptly review a Building or Zoning Permit application and approve, deny, or refer the application to the Planning Board if Site Plan Review or a Special Use Permit is required. The Code Enforcement Officer shall provide a written reason for any denial. A copy of the approved or disapproved application shall be delivered or mailed certified mail, return receipt to the applicant.
 - b. An application with the approval of the Code Enforcement Officer shall constitute the building permit or zoning permit, which shall become effective when the Code Enforcement Officer has filed written approval of the permit application in the office of the Town Clerk. A copy of the building permit shall be placed in the permanent property file for the property.
 - c. After completion of footings and establishing of the forms on the first course of the foundation walls, or equivalent structure, the owner shall notify the Code

Enforcement Officer. If required by the Code Enforcement Officer, the owner shall cause a survey to be made by a licensed land surveyor, showing the true location of such foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Code Enforcement Officer before construction is continued.

5. Flood Control Regulations

- a. The Code Enforcement Officer shall review all building permit applications for the new construction or substantial improvements to determine whether proposed building sites meet the standards of the Town of Germantown's Flood Damage Prevention Law (Local Law #1 of 1987) and will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement must:
 - (1) Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure; and
 - (2) Use construction material and utility equipment that are resistant to flood damage.
- b. The Code Enforcement Officer shall review subdivision proposals and other proposed new developments to ensure that the provisions of the Town's Flood Damage Prevention Law are met including:
 - (1) All such proposals are consistent with the need to minimize flood;
 - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
- c. The Code Enforcement Officer shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

6. Appeal

An appeal may be made to the Zoning Board of Appeals from any decision of the Code Enforcement Officer within 45 days of the decision.

7. Termination of Building or Zoning Permit

An approved Building or Zoning permit shall terminate and become void if there is no construction or commencement of the new use within 12 months of the date of approval.

C. Certificates of Occupancy

1. Applicability

- a. No land use shall be altered and no building shall be occupied, used or changed in use until Certificate of Occupancy has been approved and issued by the Code Enforcement Officer stating that the building or proposed use thereof complies with the provisions of this law and all other applicable laws and regulations.
- b. No Certificate of Occupancy shall be issued until the road or roads have been completed sufficiently to provide proper and reasonable ingress and egress for emergency vehicles.
- c. No Certificate of Occupancy shall be issued without prior approval of water supply and sewage facilities by the Columbia County Department of Health or the Town Engineer.

2. Application

A Certificate of Occupancy shall be applied for upon completion of construction. Said Certificate shall be issued within 10 days after the erection or alteration has been approved as complying with the provisions of this Law.

3. Temporary Certificates

Upon request, the Code Enforcement Officer may issue a Temporary Certificate of Occupancy for a building or structure, or part thereof, before the entire work covered by the Building Permit has been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare. Such Permit shall be effective for a period not to exceed 30 days.

4. Refusal

If the Code Enforcement Officer, after final inspection, refuses to issue a Certificate of Occupancy, he or she shall state such refusal in writing with the cause and immediately mail notice of such refusal by registered mail to the applicant at the address indicated on the application. Such notice shall include information on the appeals procedure.

5. Appeal

An appeal may be made to the Zoning Board of Appeals from any decision of the Code Enforcement Officer within 45 days of the decision.

D. Violations, Penalties and Remedies

1. Violations

a. Complaints and Investigations

Whenever a suspected violation of this Law occurs, any person may file a signed written complaint reporting such violation to the Code Enforcement Officer. The

Code Enforcement Officer shall investigate any written complaint made to his/her office. All written complaints shall be properly recorded, filed, and promptly investigated by the Code Enforcement Officer, and reported to the Town Council.

b. Notice of Violation

- (1) Upon finding there to be a violation of this Law, the Code Enforcement Officer shall transmit a written Notice of Violation certified mail, return receipt requested, to the owner and tenants of the property upon which the alleged violation occurs, describing the alleged violation, with a copy to the Town Council. The Notice of Violation shall require an answer or correction of the alleged violation to the satisfaction of the Code Enforcement Officer within a reasonable time limit set by the Code Enforcement Officer. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the Code Enforcement Officer within the time limit constitutes admission of a violation of this Law. The notice shall further state that, upon request of those to whom it is directed, technical determinations of the nature and extent of the violation as alleged will be made, and that, if a violation as alleged is found, costs of the determinations will be charged against those responsible, in addition to such other penalties as may be appropriate, and that, if it is determined that no violation exists, costs of determination will be borne by the Town.
- (2) If, within the time limit set, there is no reply, but the alleged violation is corrected to the satisfaction of the Code Enforcement Officer, a "Certificate of Compliance" shall be made on the Code Enforcement Officer's copy of the notice.
- (3) If there is no reply within the time limit set (thus establishing admission of a violation of this Law) and the alleged violation is not corrected to the satisfaction of the Code Enforcement Officer within the time limit set, the Code Enforcement Officer shall take action in accordance with Subsection c below.
- (4) A permanent record of all Notices of Violation and their disposition shall be kept in the office of the Code Enforcement Officer.

c. Abatement of Violations

The Code Enforcement Officer or the Town Council may issue a stop-work or cease-and-desist order and/or institute an appropriate legal action or proceeding to prevent, restrain, correct, or abate any violation of this Law to prevent the occupancy of premises, or to prevent any activity, business, or use that violates this Law.

(1) Stop Work Orders

- (a) Stop Work Orders shall be in writing, dated and signed by the Code Enforcement Officer with the stated reason(s) for issuance and if

applicable, state the conditions which must be satisfied before work will be permitted to resume.

- (b) The Stop Work Order, or copy thereof, shall be transmitted by certified mail, return receipt to the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder). The Code Enforcement Officer shall be permitted, but not required, to transmit a copy of the Stop Work Order by certified mail to any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order; provided however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.
- (c) Upon issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.
- (d) The issuance of a Stop Work Order shall not be the exclusive remedy to a violation, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under this Law or any other local Law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

(2) Appearance Tickets

The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this Law.

(3) Legal Action

An action or proceeding may be instituted in the name of the Town Germantown in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Council of the Town of Germantown.

2. Penalties

a. Civil Penalties

Any person who violates any provision of this Law or who fails to do any act required thereby shall, for each and every such violation, be liable to a civil penalty of not more than \$100.00. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional penalty.

b. Criminal penalties

In addition to the civil penalties described in subsection 2(a), the following criminal penalties shall apply:

- (1) First Offense. A violation of this Law is an offense, punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed 6 months, or both for conviction of a first offense;
- (2) Second Offense. Conviction of a second offense, both of which were committed within a period of 5 years, is punishable by a fine not less than \$350 nor more than \$700.00 or imprisonment for a period not to exceed 6 months, or both;
- (3) Third and subsequent offense. Conviction for a third or subsequent offense, all of which were committed within a period of 5 years, is punishable by a fine not less than \$700.00 nor more than \$1,000.00 or imprisonment for a period not to exceed 6 months, or both.
- (4) Each week's continued violation shall constitute a separate additional violation.
- (5) Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purposes of this article.
- (6) Such fines or penalties may be compromised or released by the Town Council as a part of any disposition.

3. Unpaid Fines

If a fine is imposed and is not paid within 30 days or such other time period established by the Court, then following mailing of the Notice described herein, the unpaid fines shall be assessed by the Town as a lien against the fine debtor's real property in the Town and added to the current tax roll by the Town as an unpaid charge attributable to the real property. Prior to assessing this lien for unpaid fines, the Town shall mail a notice to the fine debtor at his/her last known address by regular first-class mail stating that unless the fines are paid within 15 days of the notice date, they will be assessed and collected as an unpaid charge attributable to the real property.

4. Additional Remedy

The imposition of penalties for any violation of this Law shall not excuse the violation nor permit it to continue. The application of the above penalties or prosecution for a violation of any provision of this Law shall not prevent the abatement of a violation pursuant to subsection 1(c). The expenses of the Town in enforcing such removal, including legal fees, may be chargeable (in addition to the criminal and civil penalties) to the offender, and may be recovered in a civil court of appropriate jurisdiction.

ARTICLE XVI: AMENDMENTS

A. Applicability

The Town Council, from time to time on its own motion, on petition by property owners, or on recommendation of the Planning Board may amend, supplement, modify or repeal in whole or in part this Law.

B. Procedures

1. Petitions

- a. Any petition for amendments shall be submitted in quadruplicate to the Town Clerk with an application as established by the Town Council in the Fee Schedule. Any petition for a change in the Zoning Map shall include the following:

- (1) The name of the property owner.
- (2) A map accurately drawn to an appropriate scale showing the proposed zone district boundary changes, property lines, the calculated areas affected in acres or square feet, the street rights-of-way in the immediate vicinity, and the lands and names of owners immediately adjacent to and extending within 300 feet of all boundaries of the property to be rezoned.
- (3) A metes and bounds description of the proposed amendment.

- b. Any petitioner shall submit evidence that he/she has notified by certified mail, return receipt request, all the property owners within 300 feet of all boundaries of the affected property.

2. Referrals

- a. Any such proposed change in the text or zoning map of this Law shall first be referred to the Planning Board (except a proposal from the Planning Board), which shall submit a written report to the Town Council prior to a public hearing on the proposed amendment by the Town Council. The Planning Board shall favorably recommend adoption of an amendment or change in this chapter or in a district boundary only if:

- (1) Such change does not conflict with the general purposes, goals and intent of this Law; and
- (2) Such change is consistent with the Comprehensive Plan.

- b. The Planning Board shall submit to the Town Council its advisory report within 30 days after receiving notice from the Town Clerk of the proposed change. The failure to make such report within 30 days shall be deemed to be a favorable recommendation.
- c. Proposed amendment shall be referred to the Columbia County Planning Board under the provisions of Section 239-m of Article 12-B of the New York State General Municipal Law. No action shall be taken to approve a proposed zoning amendment referred to the County until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed amendment, unless the County and Town agree to an extension beyond the 30-day requirement for the County's review.

3. Public Hearing

- a. If the Town Council chooses to consider a proposed zoning amendment, it shall, by resolution at a duly called meeting, set the time and place for a public hearing on the proposed amendment. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice and for notice to adjacent municipalities, if necessary.
- b. Publication of Notice
 - (1) Newspaper notice of hearing. At least 10 days prior to the date of such public hearing, a notice of the time and place shall appear in the official newspaper. Such notice shall describe the area, boundaries, regulations or requirements that such proposed change involves.
 - (2) Written notice of change or amendment. At least 10 days prior to the date of said public hearing, written notice of such proposed change or amendment affecting property within 500 feet of the boundaries of the Town of Germantown shall be given to the Town Clerk. The Town shall have the right to appeal and to be heard at such public hearing with respect to any such proposed change or amendment.

C. Adoption

- 1. The Town Council may adopt amendments to this chapter by a majority vote of its membership, except in the case of local protest as described in subsection 2 below.
- 2. A protest against a proposed change or amendment to this Law, if signed by the owners of 20% or more of the area of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto

extending 100 feet from the street frontage of such opposite land, shall require the favorable vote of 3/4 of the members of the Town Council to become effective.

ARTICLE XVII: DEFINITIONS

A. Use of words and terms

1. Except where specifically defined herein, all words used in this Law shall carry their customary meanings.
2. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural, and the plural the singular.
3. The “person” includes a profit or non-profit corporation, company, partnership or individual.
4. The word “lot” includes the word “plot,” “lot” and the word “land.”
5. The word “structure” includes the word “building.”
6. The word “used” refers to the actual fact that a lot or land, building or structure is being occupied or maintained for a particular use. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for” and “occupied for.”

B. Definition of words and terms

ACCESS: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

ACCESSORY APARTMENT: A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

ACCESSORY STRUCTURE: A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. The size of the structure shall be kept within the character of the area, in which the structure is located. Also
ACCESSORY BUILDING

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ACCESSORY USE, CUSTOMARY: An accessory use that is customary to a principal building including a private garage, parking area or lot, patio, garden or storage shed, pools and ball courts.

ADULT USE: A bookstore, video store, nightclub, movie theatre, retail store, or other establishment which prominently features entertainment or materials with sexually explicit content. An establishment which sells such materials as an incidental part of its business or

which presents such material or entertainment primarily as a form of legitimate artistic expression shall not be considered an adult use. Adult Uses include the following entertainment businesses or sexually oriented business:

1. **ADULT BOOK AND/OR VIDEO STORE:** An establishment having as a substantial or significant portion (more than 25% of merchandise in number, value or bulk and/or more than 10% floor area) of its stock in trade books, magazines, periodicals or other printed or digital matter or photographs, films, videos, digitalized compact discs, slides or other visual representations, which are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities, which are for sale, rental or viewing on or off the premises.
2. **ADULT ENTERTAINMENT CABARET:** A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters or waitresses, male or female impersonators, lingerie models or exotic dancers, or other similar entertainment or films, motion pictures, digitalized compact discs or videos, slides or other photographic or digital material, or which utilizes employees that as part of their employment, regularly expose patrons to specified sexual activities or specified anatomical areas.
3. **ADULT MOTION-PICTURE THEATER:** Any motion-picture theater where, for any form of consideration, films, motion pictures, digitalized compact discs or videocassettes, slides or other photographic or digital reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
4. **ADULT THEATER:** A theater, concert hall, auditorium or similar establishment which, for any form of consideration regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.
5. **MASSAGE ESTABLISHMENT:** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths or steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or duly licensed massage therapist, or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

AGRICULTURE: The commercial use of land and structures for the production, preservation, nonindustrial processing, storage and sale of agricultural commodities such as crops, plants, flowers, vines, trees, sod, shrubs, livestock, honey, Christmas trees, compost, poultry or dairy

products, not including agricultural industry or farms primarily for the disposal of all or garbage. Commercial horse boarding operations, as defined herein, and the raising or breeding of horses are agricultural uses, distinguished from the business use of teaching or training people to ride a horse. (See RIDING ACADEMY) A roadside stand not exceeding 800 square feet in footprint area and a riding academy operated in conjunction with a farm operation (as defined herein) shall be deemed to be agricultural accessory uses. Agricultural activities on residential parcels of less than 7 acres shall be considered a residential accessory use unless such agricultural activity produces gross sales of \$50,000 or more over a two year period.

ALTERATION: As applied to a building or structure, any change or rearrangement in the structural parts or in the exit facilities or any enlargement, either by extending a side or by increasing in height, or the moving from one location or position to another. Also **STRUCTURAL ALTERATION**

AMENDMENT: A change to any portion of this Zoning Law which includes revisions to the zoning text and/or the official zoning map; the authority for any amendment lies solely with the Town Council.

ANIMAL HUSBANDRY: A branch of agriculture for the raising or nurturing and management of animals, including breeding, pasturing, ranching and sales of animals.

ANIMAL SHELTER: Any structure or property which houses stray, abandoned or owner-surrendered animals except for fish for impoundment purposes for future disposition including redemption, adoption, sale or disposal. This use may include facilities for the destruction and disposal of animals. Foster home sites and mobile adoption sites may be utilized in the operation of the animal shelter.

ANTENNA (See WIRELESS COMMUNICATION FACILITY): A structure or device utilized for the receiving and/or transmitting of radio signals, not enclosed within a building or structure, and any form of satellite receiving dishes. It shall specifically exclude customary VHF and UHF TV antennae and TV/Radio transmission towers licensed for public broadcast by the FCC. Also **SATELLITE DISH**

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

AREA, FLOOR: The sum of the gross horizontal areas of the several floors of a building, including interior balconies, mezzanines and basements, but excluding exterior balconies, unfinished basements and attics. All horizontal dimensions of each "floor area" shall be measured by the exterior face of walls of each such floor, including the walls of roofed porches having more than one wall. The "floor area" of a building shall include the floor area of accessory buildings on the same lot, measured the same way.

ART GALLERY: An establishment engaged in the sale, loan, appraisal or display of art, books, paintings, sculpture or other works of art.

ARTIST STUDIO: A workshop or workroom for the creation of fine art and crafts such as painting, sculpturing, photography, or other handmade pieces of art. The space may include a residential unit and it may also include teaching area for small groups of ten or less. Also

ARTIST LOFT

ASSEMBLY OR MEETING FACILITY: A structure for groups of people to gather for an event or regularly scheduled program. Places of public assembly include but are not limited to concert halls, arenas, lecture halls, banquet facilities and similar facilities. This definition excludes community centers, membership clubs or theaters.

BAR: A place in which the principal income is derived from the sale or serving of alcoholic beverages for consumption on the premises, with or without live entertainment. Also **TAVERN**

BASEMENT: A story partly below grade and having a portion of its clear floor-to-ceiling height above the average grade of the adjoining ground.

BED AND BREAKFAST: An owner-occupied single dwelling unit in which at least one, but not more than 4, sleeping rooms are provided by the owner-occupant as overnight/lodging facilities, with or without meals, for the accommodation of transient guests.

BREW PUB: An eating and drinking establishment where beer is prepared on the premise exclusively for on-site consumption. The brewing of such beer is accessory to the eating and drinking establishment.

BROADCASTING FACILITY, RADIO OR TELEVISION: Commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings.

BUFFER AREA: A strip of land, usually landscaped and open in area, intended to protect one type of land use from the other that may be incompatible or separate and partially obstruct the view of 2 adjacent land uses or properties from one another. Also **SCREENING**

BUILDABLE LAND: That portion of a lot which is suitable for building structures and locating septic disposal facilities, i.e. all land excluding wetlands and watercourses, steep slopes and flood hazard areas as mapped on the Federal Emergency Management Agency's Insurance Rate Map.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the finished grade along the side of the building fronting on the nearest street to the highest point of such building.

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

CABIN: Any structure designed primarily for seasonal use.

CAFÉ: An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

CAMPGROUND: Parcel of land designed for temporary use of recreational travel vehicles, tents, campers, etc.

CAR WASH: A structure or building designed for the washing, waxing, cleaning or similar treatment of automobiles as its principle function.

CODE ENFORCEMENT OFFICER: The official building inspector for the Town of Germantown.

COLLEGE/UNIVERSITY: An institution other than a trade school that provides full-time or part-time education beyond high school.

COMMON USE DRIVEWAY: A private deeded right-of-way which serves as the access to no more than 2 lots or parcels of land.

COMMUNITY CENTER: A not-for-profit or publicly owned facility providing community facilities such as recreational programs and meeting rooms that are open to the public and designed to accommodate and serve significant segments of the community.

COMPREHENSIVE PLAN: The Comprehensive Plan adopted by the Town Council for the future preservation and development of the Town of Germantown pursuant to Section 272-a of the New York State Town Law, including a part of such plan separately adopted and any update or amendment to such plan.

CONDOMINIUM: A building or groups of buildings in which dwelling units are owned individually, and the owners own the structure, common areas, and facilities jointly.

CONVENIENCE STORE: Any retail establishment containing less than 5,000 square feet offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

CULTURAL FACILITY: A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

DAY CARE, ADULT: Provision of daytime care to adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities. Said care shall be provided for a period of time of more than 3 but less than 12 hours on any given day.

DAY CARE, FAMILY/CHILD: A program or facility caring for children. Said care shall be provided for a period of time of more than 3 hours per day but less than 24 hours on any given day for any given child by an individual, association, corporation, institution or agency whose activities including providing child day care or operating a facility where child day care is provided as defined in Section 390 of the New York State Social Services Law.

DENSITY: The lot area per dwelling unit required in the zoning district regulations.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to construction or alteration of buildings or other structures, as well as clear-cutting mining, dredging, filling, paving, excavations, or drilling operations.

DRIVE-THROUGH FACILITY: Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. A drive-through facility is considered an accessory use. An automobile service station is not considered a drive-through facility for purposes of this Law.

DRIVEWAY: A private way providing vehicular access from a public or private road to a single lot, facility or establishment.

DWELLING: A building arranged, intended or designed to be occupied by one or more families living independently of each other upon the premises.

DWELLING, MULTI-FAMILY: A building containing separate living units for 3 or more families, including apartment buildings, rowhouses, townhouses, regardless of the form of ownership (condominium, fee simple, rental).

DWELLING, SINGLE-FAMILY: A freestanding residential dwelling designed for and occupied by one household only.

DWELLING, TWO-FAMILY: A building containing separate living units for 2 families, including regardless of the form of ownership (condominium, fee simple, rental). For purposes of this Law, a townhouse is not considered a two-family dwelling and is a separate use.

DWELLING UNIT: A building, or portion thereof, which provides complete housekeeping facilities for one (1) family.

ELDER COTTAGE HOUSING OPPORTUNITY (ECHO UNIT): A modular cottage licensed by the Planning Board for temporary installation of a single-family residential premises, designed to be occupied by one or 2 people who will benefit from living in close proximity to the principal residents of the premises.

ENTERTAINMENT AND RECREATION FACILITY, COMMERCIAL: Any establishment that is operated, maintained, or devoted to amusement of the general public, whether privately or publicly owned, where entertainment is offered by the facility. Entertainment facilities shall include, but not be limited to, theaters, bowling alleys, movie theaters, dance halls or clubs, video arcades, skating rinks, batting cages, and miniature golf courses. Entertainment facilities shall not include adult entertainment businesses, taverns, pubs, golf courses, or parks.

EXTRACTION, PRIVATE: Any extraction from the land of sand, gravel, or topsoil by the owner of the land, or any extraction for the purpose of sale of less than 750 cubic yards of said materials in any one-year period.

FAMILY: One or more persons living together as a single nonprofit housekeeping unit, using all rooms and housekeeping facilities of a dwelling unit in common and doing their cooking on the premises, as distinguished from a group occupying a boardinghouse or rooming house.

FARM WORKER HOUSING, TEMPORARY: A dwelling located on a farm for the purpose of housing seasonal employees of that farm operation and his/her family in connection with an orchard or other agricultural use which relies on seasonal employees who must be housed.

FENCE: Any artificially constructed barrier constructed of any material or combination of materials erected to enclose or screen areas of land from view.

FUNERAL HOME: A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services. Such facilities shall not include crematoriums.

GARAGE: A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

GARAGE, MOTOR VEHICLE REPAIR: A building used for adjustment, painting, replacement of parts or other repair of motor vehicles whether or not accessory or incidental to another use.

GARAGE, PARKING: A building used for the commercial storage of automobiles or trucks and not used for making repairs.

GASOLINE STATION: Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories, where repair service, if any, is incidental. A gas station may include the sale of propane or kerosene as accessory uses.

GIFT SHOP: A retail store where items such as art, antiques, jewelry, books and notions are sold.

GOLF COURSE: A tract of land for playing golf for a fee, improved with tees, greens and fairways and which may include clubhouses, pro shops, food and beverage service and shelters.

GOLF COURSE, MINIATURE: Any parcel of land that is used for the game of golf played at a much decreased scale and commonly referred to as "miniature golf."

GREENHOUSE: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. Also **NURSERY**

GROSS FLOOR AREA: The aggregate floor area of an entire building or structure enclosed by an including the surrounding exterior walls.

HAZARDOUS MATERIAL: Includes any of the following:

1. Petroleum
2. Any substance or combination of substances designated as a hazardous substance under Section 311 of the Federal Water Pollution Control Act (33 USC 1321)
3. Any substance listed by the New York State Department of Environmental Conservation which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly stored or otherwise managed.

HAZARDOUS WASTE: All materials or chemicals listed as hazardous wastes pursuant to Article 27 of the New York State Environmental Conservation Law (ECL), and all toxic pollutants as defined in subdivision 19 of Section 17-0105 of the ECL.

HOME OCCUPATION: An occupation carried on in a dwelling unit or accessory structure by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HORSE BOARDING, COMMERCIAL: An enterprise that boards at least 10 horses, regardless of ownership, and receives \$10,000 or more in gross receipts annually from fees generated either through the boarding of horses. Under no circumstances shall this subdivision be construed to include operations whose primary purpose is horse racing.

HOSPITAL: An institution for the care and treatment of the sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for

diagnosis and treatment of persons suffering from sickness or injury who require bed care, out-patient care or emergency room care.

HOTEL: A facility offering transient lodging accommodations on a daily rate to the general public. It may provide additional services such as restaurants, meeting rooms, and recreational facilities. Also **INN**

IMPERVIOUS SURFACE: Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas (paved or gravel), sidewalks, patios and paved recreation areas.

IMPERVIOUS SURFACE COVERAGE: The percentage of the area of a lot that is covered by impervious surface.

INDUSTRY, HEAVY: Manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.

INDUSTRY, LIGHT: A use which involves the fabrication, reshaping, reworking, assembly, or combination of products, including processing, packaging, incidental storage, sales and distribution of such products, but is exclusive of uses that require offensive, noisy, or otherwise objectionable disturbances, such as vibration, dust, and odors. Light Industry does not include from raw materials, such as but not limited to: asphalt, cement, charcoal, fuel briquettes, chemicals and related products which may be dangerous, offensive, or create nuisances; and processes, whether or not related to such production including but not limited to nitrating, milling, reduction, refining, melting, alloying and distillation.

INSTITUTION: A non-profit, religious or public use, such as a church, library, public and private school, hospital, or government owned or operated building, structure or land used for public purpose.

JUNK YARD: A lot, land, structure or part thereof, used for the collection, storage and sale of waste paper, rags, scrap metal or discarded material; or the collecting, dismantling, storage, salvaging or sale of parts or machinery or vehicles not in running condition. A deposit, collection or storage on a lot of 2 or more vehicles no longer in condition for legal use on public highways, i.e. registered and inspected, for one month or more in a residential district or 3 months or more in a non-residential district, shall constitute a motor vehicle junk yard.

KENNEL: A commercial establishment in which more than 4 dogs, cats or other domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

LOT: A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development.

LOT AREA: The total horizontal area included within lot lines.

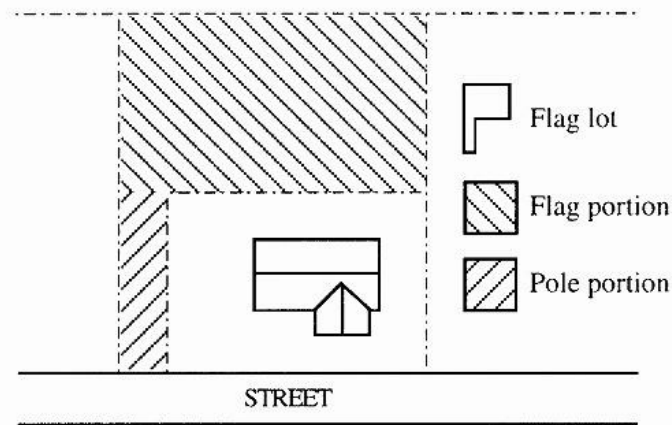
LOT, CORNER: A lot at the junction of and fronting on 2 or more intersecting streets.

LOT COVERAGE: The percentage of the lot area covered by a building or buildings.

LOT, FLAG: A lot with 2 distinct parts:

1. The flag, which is the only building site and is located behind another lot.
2. The pole, which connects the flag to the street, provides the only street frontage for the lot and at any point is less than the minimum lot width for the zone.

Flag Lot



LOT FRONTAGE: A lot line, which is coincident with a street line.

LOT LINES: Any line dividing one lot from another lot or from a street.

LOT OF RECORD: Any lot which has been established as such by plat, survey record, or deed prior to the date of this Law as shown on the records in the Office of the County Clerk.

LOT, THROUGH: A lot which faces on 2 streets at opposite ends of the lot, which is not a corner lot.

LOT WIDTH: The distance between side lot lines measured at right angles to the lot depth at a point from the front lot line equal to the front yard specified for the district.

LUMBERYARD: A lot with or without a building or structure utilized for the storage of building and construction materials and equipment for sale to the public, which may include a drive-through facility.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built with a trailer hitch and a permanent chassis and wheels and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Also **MOBILE HOME**

MANUFACTURED HOME PARK: A plot or tract of land separated into 2 or more spaces or lots, which are rented or leased or offered for rent or lease to persons for the installation of manufactured homes for use and occupancy as residences.

MANUFACTURED HOME SITE: A plot of land within a manufactured home park that is designated for and designated as the location for only one manufactured home and customary accessory uses.

MEMBERSHIP CLUB: The premises and buildings used by an organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required for the membership and purposes of such club.

MIXED USE: The development of a lot, building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, retail, service, public or entertainment.

MODULAR HOME: A factory fabricated, Uniform Building Code approved transportable building unit, designed to be used by itself or to be incorporated with similar units at a building site, into a modular structure and placed on a permanent foundation. Modular homes shall bear the Uniform Building Code certification as factory-manufactured dwellings. For purposes of this Law a modular home is a single family home.

MOTEL: A building or group of detached or connected buildings designed or used for providing transient sleeping accommodations where each accommodation unit maintains a separate outside entrance.

MOTORIZED VEHICLE SALES, LEASE AND/OR RENTAL: The use of a building, land area, or other premises or portion thereof, for the display, sale, rental or lease of motorized vehicles including but not limited to automobiles, boats, motorcycles, recreational travel vehicles (RVs), including any warranty repair work and other repair service conducted as an accessory use.

MUNICIPAL FACILITIES: Basic uses and services usually furnished by local government but which also may be provided by private enterprise, essential to the support of the community including municipal offices and buildings, emergency services such as ambulance and fire protection, water supply and sewage treatment facilities. This definition does not include community centers, public utilities or public transportation shelters.

NONCONFORMING LOT: A lot of record which does not comply with the area, shape, frontage, or locational provisions of this Law for the district in which it is located.

NONCONFORMING STRUCTURE: A building or structure that was lawfully erected prior to the adoption or amendment of the Town of Germantown's Zoning and Subdivision Law but that no longer complies with all regulations applicable to the zoning district in which the structure is located.

NONCONFORMING USE: A use or activity which lawfully existed prior to the adoption or amendment of the Town of Germantown's Zoning Law but fails by reason of such adoption or amendment to conform to the present use requirements of the district in which it is located.

OFFICE: A building or portion thereof used primarily for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment. No manufacturing processes, retail sales, construction, or warehousing occur on the premises.

OFFICIAL NEWSPAPER: The newspaper or newspapers designated by the Town for the publication of official notices of meetings and public hearings.

OUTDOOR WOOD BOILER: A fuel burning device that (a) is designed to burn wood or other fuels; (b) is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.

PARK, PUBLIC: Land that is publicly owned or controlled for the purpose of providing parks, recreation or open space for public use.

PARKING GARAGE: See **GARAGE, PARKING**

PARKING LOT: An off-street, ground-level open area for the temporary storage of motor vehicles. Does not include an area used exclusively for the display of motor vehicles for sale as part of a motor vehicle sales establishment.

PARKING, SHARED: Two or more land uses or a multi-tenant building that merge parking needs based on different operating hours to gain a higher efficiency in vehicular and pedestrian circulation, economize space, reduce impervious surface and result in a superior grouping of building(s).

PARKING SPACE: A stall or berth which is arranged and intended for parking one (1) motor vehicle in a garage or parking lot.

PERFORMANCE BOND: A performance bond duly issued by a bonding or surety company approved by the Town Council with security acceptable to the Town Council, or a performance

bond duly issued by the developer-obligor accompanied by security in the form of cash, certified check or United States Government bearer bonds deposited with the Town Council in the full amount of the obligation.

PLAT: A map representing a tract of land showing the boundaries and location of individual properties and streets prepared by a licensed land surveyor and a licensed professional engineer, registered architect or licensed landscape architect, which shall have his/her New York State seal affixed thereon and on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

PRIME FARMLAND SOILS: Prime farmland soils, as defined by the U.S. Department of Agriculture, are soils that are best suited for producing food, feed, forage, fiber, and oilseed crops.

RECREATION AND RECREATION FACILITY, PUBLIC: Recreation facility operated as a nonprofit enterprise by the Town of Germantown, any other governmental entity or any nonprofit organization and open to the general public.

RECREATIONAL VEHICLE (RV): Any portable vehicle or structure which is designed to be self propelled or permanently towable on its own wheels; which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes.

RELIGIOUS INSTITUTION: An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. This definition also includes the terms **PLACE OF RELIGIOUS WORSHIP, HOUSE OF WORSHIP, CHURCH, TEMPLE,** and **MOSQUE.**

RESEARCH AND DEVELOPMENT FACILITY: A building for experimentation in pure or applied research design, development and production of prototype machines or devices or of a new product, and uses accessory thereto, excluding biological laboratories.

RESIDENTIAL CARE FACILITY: Any building used as a group residence or extended care facility for the care of persons, including assisted living facilities and nursing homes, where compensation and/or reimbursement of costs is paid to an operator, pursuant to State or Federal standards, licensing requirements, or programs funding residential care services.

RESTAURANT: A business establishment whose principal business is the selling of prepared food and beverages to the customer in a ready-to-consume state. The term restaurant includes sit down restaurants and take-out restaurants.

RETAIL SALES AND SERVICE: A building or portion thereof engaged in selling goods, services or merchandise to the general public for personal and household consumption and rendering services incidental to the sale of such goods. This definition shall not include retail and service establishments listed separately in Schedule A: Use Regulations of this Law.

RIDING ACADEMY: Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

RIGHT-OF-WAY: Property that is publicly owned or upon which a governmental entity has an expressed or implied property interest (e.g. fee title or easement) held for a public purpose. Examples of such public purpose include, by way of example and not by limitation, a highway, a street, sidewalks, drainage facilities, a crosswalk, a railroad, a road, an electric transmission line, an oil or gas pipeline, a water main, a sanitary or storm sewer main, shade trees or for any other special use. The usage of the term “right-of- way” for subdivision platting purposes means that every right-of-way established and shown on a final plat is separate and distinct from the lots or parcels adjoining the right-of-way, and is not included, within the dimensions or areas of such lots or parcels. Rights-of-way involving maintenance by a public agency are dedicated to public use by the maker of the plat on which the right-of-way is established.

ROADSIDE STAND: A direct marketing operation offering outdoor shopping. Such an operation is seasonal in nature and features farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

SAW MILL: A facility where logs are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot. A saw mill may include the accessory sale of wood products from the same lot.

SCHOOL, PRIVATE: A private facility furnishing comprehensive curriculum of academic instruction similar to that of a public school on the, pre-kindergarten, kindergarten, primary and/or secondary level.

SCHOOL, PUBLIC: Any place offering instruction in any branch of knowledge under the supervision of the State of New York.

SELF STORAGE FACILITY: A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

SETBACK: The minimum horizontal distance between the streets, rear or side lines of the lot and the front, rear or side lines on the building. When 2 or more lots under single ownership are used, the exterior property lines so grouped shall be used in determining offsets.

SHED: Any accessory structure used for storage or containment.

SIGN: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity or to communicate information of any kind to the public.

SMALL ENGINE REPAIR SERVICES: The maintenance and repair of low-power internal combustion engines (gasoline/petrol) or electric engines. Equipment repaired includes chain saws, string trimmers, leaf blowers, snow blowers, lawn mowers, wood chippers, go-karts and sometimes more powerful engines used in outboard motors, snowmobiles and motorcycles.

SOLAR ENERGY SYSTEM: A solar collector or other device or structural design feature of a structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use.

SPECIAL USE PERMIT: A special use permit is an allowed use in a district, which because of its unique characteristics requires individual consideration in each case by the Planning Board, before it may be permitted.

SPORTSMAN'S CLUB & OUTDOOR SHOOTING RANGES: Establishments primarily engaged in providing opportunities for hunting, fishing, skeet, trap, target shooting and other shooting sports.

STABLE: Any building or group of buildings with a sole function of the storage and/or raising of horses.

STEEP SLOPES: Surface formation with a vertical incline greater than 22.5 degrees or 25 percent, a sufficient steepness to cause problems such as erosion or increased flooding when disturbed for land development or other purposes.

STORAGE, OUTDOOR: Land used for the legal keeping of goods, wares, equipment or supplies outside of a structure as provided in the Town of Germantown Junk Storage Law.

STREET: A public or private way, which affords the principal means of access to abutting properties, including any highway.

STREET GRADE: The officially established grade of the street upon which a lot fronts; or, if there is no officially established grade, the existing grade of the street shall be taken as the street grade.

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

STRUCTURE: Anything constructed or erected on or under the ground or upon another structure or building.

SUBDIVISION: The division of any parcel of land into 2 or more lots, blocks or sites, with or without streets or highways and includes re-subdivision.

THEATER: A building or part of a building devoted to the presentation of theatrical or other entertainment performances including the showing of motion pictures on a paid admission basis.

THEATER, DRIVE-IN: An open lot devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

TOWNHOUSE: A building on its own separate lot containing one dwelling unit that occupies space from the ground to the roof, and is attached to one or more other townhouse dwelling units by at least one common wall.

USE: The specific purpose, for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE, PERMITTED: A specific principal use of a building, structure, lot or land which this Law provides for in a particular district as a matter of right. Also **PERMITTED USE**

USE, PRINCIPAL: The main or primary purpose of which a building, structure and/or lot is designed, arranged or intended, or for which they may be used, occupied or maintained under this code. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this code shall be considered an accessory use.

USE, PROHIBITED: A use of a building, structure, lot or land, or part thereof, which is not listed as a permitted use or a use requiring a special permit.

VARIANCE, AREA: The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. An increase in density or intensity of use shall be deemed to require a use variance if such increase is not allowed by right or by Special Permit.

VETERINARY HOSPITAL: Any structure where animals or pets are given medical or surgical treatment, including short-term boarding of animals when boarding is for the purpose of monitoring recovery, but not including boarding or kenneling. Also **ANIMAL HOSPITAL**

VIEWSHED: An area that is visible from a public roadway or public trail which encompasses natural landforms such as valleys, ridges, farm lands and open spaces which may have inherent rural qualities and/or aesthetic values as determined by those who view it.

VOCATIONAL AND BUSINESS SCHOOL: A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills.

WALL: A structure of wood, stone or other materials or combination thereof intended for security, screening or enclosure or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.

WAREHOUSE: A facility characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

WHOLESALE AND DISTRIBUTION: An establishment primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers.

WIND ENERGY SYSTEM, SINGLE COMMERCIAL. A single wind turbine, producing greater than 100 kilowatts of rated capacity.

WIND ENERGY SYSTEM, SMALL: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, or similar technology, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

WIRELESS COMMUNICATION TOWER: A structure on which one or more antenna will be located, that is intended for transmitting and/or a combination thereof receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

YARD: An open space on the same lot with a building, unoccupied or unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Law.

YARD, FRONT: An open, unoccupied space on the same lot with the building, between the front line of the building and the street or highway line, and extending the full width of the lot.

YARD, REAR: An open, unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of the building and the rear lot line and extending the full width of the lot.

YARD, SIDE: An open unoccupied space on the same lot with the building, situated between the building and the side lot line, and extending from the front yard to the rear yard.

ZONING DISTRICT: A geographic subdivision of and within the Town as delineated on an official Zoning Map for which the requirements of a Zoning Law governing the uses, dimensional standards, etc., are uniform herein.

ZONING LAW: The officially adopted Zoning Law of the Town of Germantown, together with any and all amendments thereto. Also **THIS LAW**

ARTICLE XVIII: MISCELLANEOUS PROVISIONS

A. Severability

If any provision of this Law or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this Law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

B. Effective Date

This Law shall take effect upon filing with the New York State Secretary of State.

APPENDIX A

FORM A: MAJOR SUBDIVISION RESOURCE ANALYSIS ASSESSMENT

Name of subdivision: _____

Address: _____

	Yes	No	Not Sure
Are there streams, wetlands, waterbodies or watercourses that require protective buffer areas?			
Is there active farmland on the parcel(s)?			
Will the active farmland be preserved?			
Is there active farmland contiguous to the subject parcel(s)?			
Is this an Agricultural Exempt parcel(s)?			
Are there ridgelines that the Town desires to be kept clear of development?			
Could development alter the visual character from offsite dramatically?			
Could development alter viewshed vantage points within the property?			
Have visual mitigation measures been discussed?			
Are there high-quality trees and significant groups of trees that should be preserved?			
Is there the potential for significant wildlife habitats or wildlife migration areas?			
Do any of these significant natural areas extend into abutting properties?			
Have mitigation measures been discussed?			
Are there stone walls and rock outcrops on the site?			
Is the parcel adjacent to a public recreational area?			
Are there possibilities for walkway, bikeway and/or trail connections?			
Are there special cultural and historic features that should be preserved?			
Is the parcel adjacent or within an officially designated historic site or district?			
Can the development be connected to a public water supply?			

Priority resources that must be preserved on the site:

Recommendations:

Date of Planning Board site visit: _____

Form B: Site Plan Review Checklist

Proposed Development:	Applicant:	
Name	Name	
	Address	
	Telephone	
Procedural Sequence:		Date:
Initial contact with enforcement officer		
Pre-submission conference		
Preliminary application		
Fee paid: Amount \$		
Public hearing notice		
Public hearing		
Tentative action:		
Approval		
Approval with modifications		
Disapproval		
Resubmitted		
Lapse date for final approval		
Final application		
Referral		
Comments returned		
Final Action:		
Approval		
Approval with modifications		
Conditions satisfied		
Disapproval		
Resubmitted		
Building permit granted		
Performance bond required		
Amount: \$		
Period:		
Improvements covered:		

Performance bond satisfied	
Certificate of occupancy issued	
Technical Considerations	<u>Item Satisfied</u>
North arrow, scale, date	
Property boundary, dimensions & angles	
Easements and deed restrictions	
Names, locations and widths of adjacent streets	
Land use, zoning, ownership and physical improvement of adjacent properties	
Conformity with comprehensive plan	
Impact on environs:	
Land use	
Transportation	
Community facilities and services	
Aesthetics	
Environmental, i.e., air, water, noise, etc.	
Energy conservation	
Historic preservation	
Environmental impact statement	
Existing, on-site physical improvements	
Existing natural features:	
Geologic features	
Soil characteristics	
Topography	
Vegetation	
Hydrologic features	
Proposed developments:	
Grading and drainage plan	
Buildings and other structures	
Improvements such as parking, storage and recreation areas	
Vehicular and pedestrian ways including ingress and egress	
Utility lines and appurtenances	
Outdoor lighting and public address systems	
Outdoor signs	
Landscaping plans	
Architectural plans	
Materials specifications	
Construction schedule	

TOWN OF GERMANTOWN HYDROGEOLOGICAL STUDY REQUIREMENTS

SECTION 1.0 INTRODUCTION

Hydrogeological studies are required for certain development activities as specified below. The purposes of such hydrogeological studies are to: (1) assess the adequacy of the available groundwater supply to support the proposed development; and (2) evaluate the potential impacts for adverse impacts upon any nearby groundwater users and surface waters. Hydrogeological studies as set forth in this document are based on both on-site testing, and existing and readily available information.

Hydrogeological testing and evaluation shall be performed by a qualified consultant approved by the Town of Germantown Planning Board. Work shall be performed or directly supervised by a licensed or certified professional geologist who has related project experience in Columbia County. Alternatively, work may be performed or directly supervised by a licensed professional engineer who is experienced in performing groundwater studies and has related project experience in Columbia County. Where not specifically defined in this document, the methodology used for testing and evaluation shall follow generally accepted professional hydrologic and hydrogeologic practices and standards.

SECTION 2.0 APPLICABILITY

Hydrogeological studies are required for two general types of land development projects: (1) certain residential subdivisions utilizing on-site ground water and/or on-site sewage disposal; and (2) other types of development that utilize relatively large amounts of on-site ground water and/or dispose of a high volume of sewage on-site (see specific thresholds below).

A hydrogeological study must be performed for any new subdivision involving ten (10) or more lots that relies upon either on-site ground water withdrawals and/or on-site sewage disposal. A hydrogeological study must also be performed for any new subdivision involving five (5) or more lots that relies upon on-site ground water withdrawals and overlies an area with average well yields of less than 5 gallons per minute as indicated on Figure 7 of the Town of Germantown Groundwater Protection Plan prepared by the New York Rural Water Association. Eight (8) copies of a hydrogeological study for such a subdivision must be submitted to the Town of Germantown Planning Board in conjunction with submission of the preliminary plat. The hydrogeologic study must be formally approved prior to approval of the preliminary plat.

A hydrogeological study is also required for any type of proposed development project with on-site groundwater withdrawals and/or on-site sewage disposal flows potentially equal to or exceeding an average of two thousand (2,000) gallons per day (gpd) during any single thirty (30)-day period. These types of projects could include, but are not limited to, recreational developments (golf courses, water theme parks, etc.), multi-family housing (apartments, condominiums, townhouses, etc.), industrial, or commercial

developments. Ten (10) copies of a hydrogeological study for such a development project is required to be submitted to the Town of Germantown Planning Board as part of the site plan review process indicated in the Town's zoning regulations.

SECTION 3.0 BACKGROUND EVALUATION

A background evaluation and analysis of the regional and site specific hydrogeologic conditions should be conducted using readily available existing resources such as publications and/or data from the U.S. Geological Survey (USGS), U.S. Environmental Protection Agency, U.S. Department of Agriculture's Natural Resources Conservation Service (formerly the Soil Conservation Service), New York State Geological Survey, New York State Department of Environmental Conservation, New York State Department of Transportation, New York State Department of Health, Columbia County Health Department, etc. At a minimum, the evaluation shall include the area within approximately one (1) mile beyond the project boundary.

The evaluation and analysis shall include the following:

- Topographic information from USGS mapping and other sources.
- Property maps, aerial photographs, and land use data (for example from real property classifications).
- Geologic maps and data reports (well logs, water quality analyses, geologic information, soils data, etc).
- Existing well data and descriptive statistical summary of the same (e.g. minimum, maximum and mean of well data, etc.)
- Existing research reports, hydrogeologic reports, etc.
- Locations and identifications of all wells within a minimum of 1,500 feet of the proposed development boundaries, including public water supplies.
- Existing and potential contaminant sources of record or those observed on site and within a minimum of 1,500 feet of the project site boundary. An attempt shall be made to verify sources of record by field reconnaissance.
- Preliminary field verification of existing geologic information including rock outcrops, bedrock fractures, karst features, linear features, photo linears, etc.
- At sites with bedrock outcrops, fracture orientations (strike and dip measurements) shall be measured and documented in the report. The number and orientations of linear features or photo lineaments shall be analyzed and correlated with documented bedrock fractures.

- Evaluation of the site hydrogeology and the occurrence, quality, and quantity of ground water.

SECTION 4.0 TESTING REQUIREMENTS

Section 4.1 Water Supply Testing for Applicable Subdivisions

A. Wells

1. The applicant must submit a plan to the Town of Germantown Planning Board showing the locations and construction details of proposed test wells. The Town of Germantown may approve, approve with conditions, reject, or request more information within 45 days of receipt of such a well plan.
2. Well construction and testing shall be performed by a certified water well contractor (NYS Environmental Conservation Law 15-1525) in accordance with Appendix 5-B of 10 NYCRR Part 5 (Standards for Water Wells).
3. Pumping tests should be conducted during a period of time of average or below average seasonal stream flow conditions (typically not during the months of March, April, and May).
4. Where individual wells are proposed for each lot, test wells shall be installed and tested on at least twenty percent (20%) of the proposed lots and on at least forty percent (40%) of the lots having a portion of the lot situated in an area with average well yields of less than 5 gallons per minute as indicated on Figure 7 of the Town of Germantown Groundwater Protection Plan prepared by New York Rural Water Association. The purpose of these wells is to provide evidence that the hydrogeologic system is capable of furnishing and sustaining the potable water needs of the proposed development.
5. Test wells may be used as designated lot wells if they meet all requirements of Appendix 5-B of 10 NYCRR Part 5 (Standards for Water Wells).
6. For wells that will be used for public water systems, all test wells shall also be located, constructed, and protected in accordance with Appendix 5-D of 10 NYCRR Part 5 (Special Requirements for Wells Serving Public Water Systems) as well as other applicable portions of Subpart 5-1 of 10 NYCRR.

7. Where individual wells are proposed for each lot, test well locations should provide a representative geographic distribution across the proposed subdivision.
8. Where individual wells are proposed for each lot, test well sites shall include wells in each bedrock and/or unconsolidated geologic unit in which wells are proposed.
9. Where individual wells are proposed for each lot, test wells shall be situated in each topographic setting that wells are proposed on the subdivision (i.e. high areas, low areas, sloping areas, etc.).
10. Where individual wells are proposed for each lot, an adequate number of test wells should be installed on adjacent lots in the proposed subdivision in order to evaluate potential adverse impacts to adjacent wells.
11. If there are existing, off-site wells within 1,000 feet of the subdivision, test well(s) should be located in order to evaluate the potential for adverse impacts to these existing wells.
12. If any portion of the subdivision is located within 100 feet of a surface water body or wetland, and individual wells are proposed for each lot, at least one well should be located between 25 and 100 feet of such surface waters in order to determine potential adverse impacts and groundwater quality issues.
13. A well log must be submitted to the Town for each well drilled, along with a copy of the New York State Department of Environmental Conservation Well Completion Report.
14. Where individual wells are proposed for each lot, physical or chemical alteration of geologic materials or structures (e.g., hydraulic fracturing, use of explosives, or addition of chemicals) to increase yield of test wells will not be permitted prior to the pumping test.

B. Formation Sampling

1. During all drilling, representative samples shall be collected for each unconsolidated and consolidated geologic formation encountered. The applicant shall retain these samples and provide them to the Town if requested.
2. A well driller certified in accordance with NYS Environmental Conservation Law (ECL) 15-1525 or a certified/professional geologist shall complete and submit to the Town a well log for each test well constructed for the investigation. The log shall describe materials

encountered during drilling (unconsolidated and consolidated materials), and indicate the depth below ground surface of each material change. The log should be indicated on the New York State Department of Environmental Conservation Well Completion Report.

C. Pumping Tests

1. The applicant must submit a plan to the Town of Germantown Planning Board showing the wells that are to be pump tested, along with water level monitoring locations, surface water bodies and wetlands, possible pumping rates, discharge locations, schedules, and laboratory water quality testing details. The Town of Germantown may approve, approve with conditions, reject, or request more information within 45 days of receipt of such a testing plan.
2. No pumping should be conducted at or near the test well site for at least 24 hours prior to the test.
3. A pumping rate shall be used that reasonably stresses the aquifer but does not result in excessive drawdown in the well. The minimum acceptable pumping rate for the test shall be two (2) gallons per minute. However, a water well that yields a pumping rate of at least 5 gallons per minute is usually necessary to safely meet peak and daily needs of most residences.
4. A test pump capable of providing a minimum of 2 to 5 gallons per minute at the required head must be used to perform the test. Any pump failure must have no significant effect on the data or a similar termination and restart is necessary.
5. The pumping rate shall be measured using a flow meter installed in the discharge line along with a control valve. The flow meter shall be calibrated at the beginning of the pumping period (all calibration measurements shall be recorded). The discharge flow rate shall be monitored and recorded at least once every 15 minutes during the first hour of the test and every 60 minutes thereafter.

For relatively low flow rates, (< 5 gallons per minute), the flow rate may be obtained by determining the time required to fill a container of known volume (e.g., a 5-gallon bucket). The number of seconds/minutes to fill the container and the exact time of day shall be recorded.

6. The pumping test should include a minimum four-hour period of stabilized drawdown while pumping occurs at a constant flow rate. During the period of stabilized drawdown the stabilized water level shall not fluctuate more than plus or minus 0.5 foot (i.e., within a vertical tolerance of one

foot) for each 100 feet of water in the well (i.e., initial water level to bottom of well) over the duration of constant flow rate of pumping. During the duration of constant flow rate pumping, the pumping rate shall not vary by more than 10 percent.

7. Water level measurements must be made to the nearest 0.01 foot. Preferred measurement methods include electronic sensors and pressure transducers.
8. Water level measurements in the pumping well and in at least two (2) of the closest available test wells are required immediately before the start of the test and during the pumping test at the following intervals:

Time After Pumping Started	Time Intervals
0 to 15 minutes	5 minutes
15 to 120 minutes	15 minutes
120 to 360 minutes	30 minutes

Note that all wells within a minimum distance of 500 feet of the pumping well shall be monitored, including any off-site wells (if practicable).

9. The water height of any bodies of water within 500 feet of the pumping well shall be monitored prior to the test, hourly during the pumping test, and at the end of the recovery period (see item 11).
10. Water discharged from the pumping well must be discharged a sufficient distance from the pumping well and other measured wells to avoid possible impacts from re-circulating the water. The water should be discharged to a drainage ditch or swale that will direct the water away from the well(s) if possible. If necessary, a temporary water storage tank can be used.
11. Upon completion of the pumping portion of the test, water level measurements should be recorded at the pumped well until the water level recovers back to at least 90 percent of the initial water level or for a period of 24 hours, whichever occurs first. If the water level does not recover to 90 percent of the initial water level after 24 hours, the tested flow rate may not be sustainable for an extended period of time.
12. A check valve must be installed at the base of the pump column pipe in the pumping well to eliminate backflow of water into the well during the recovery period.

13. For public water systems, all test wells shall be tested in accordance with Appendix 5-D of 10 NYCRR Part 5 (Special Requirements for Wells Serving Public Water Systems) as well other applicable portions of Subpart 5-1 of 10 NYCRR. In addition for community water systems, pump tests will follow NYSDEC Appendix 10, TOGS 3.2.1 (Recommended Pump Test Procedures for Water Supply Applications).

D. Laboratory Testing for Water Quality.

1. Water quality samples should be collected at the conclusion of the pumping test.
2. Water quality samples should be analyzed for the following: coliform bacteria, lead, nitrate, nitrite, iron, manganese, sodium, chloride, pH, hardness, sulfate, alkalinity and turbidity.
3. Additional tests for petroleum products or solvents may be necessary if the pumping well is located in the vicinity of a spill, petroleum storage facility, or other similar land use.
4. Tests for hazardous substance list metals, PCBs, and pesticides may be necessary if the pumping well is located adjacent to a landfill, junkyard, etc.
5. Analyses for specific chemicals may be necessary if the pumping well is located near an industry that stores and/or uses particular chemicals.
6. For public water systems, all test wells shall be tested for water quality in accordance with Subpart 5-1 of 10 NYCRR including Appendix 5-D of 10 NYCRR Part 5.

Section 4.2 Water Supply Testing For Other Developments with Groundwater Withdrawals and/or On-Site Sewage Disposal Flows \geq 2,000 GPD

A. Geology

1. During all drilling, representative samples shall be collected for each unconsolidated and consolidated geologic formation encountered. The applicant shall retain these samples and provide them to the Town if requested.
2. A well driller certified in accordance with NYS Environmental Conservation Law (ECL) 15-1525 or a certified/professional geologist shall complete a well log for each test well constructed for the investigation. The log shall describe materials encountered during drilling (including unconsolidated materials), and indicate the depth below ground surface of each material change. The log should be indicated on the New York State Department of Environmental Conservation Well Completion Report.

B. Wells

1. The applicant must submit a plan to the Town of Germantown Planning Board showing the locations and construction details of proposed test wells. The Town of Germantown may approve, approve with conditions, reject, or request more information within 45 days of receipt of such a well plan.
2. Well construction and testing shall be performed by a certified water well contractor (NYS Environmental Conservation Law 15-1525) in accordance with Appendix 5-B of 10 NYCRR Part 5 (Standards for Water Wells).
3. For water wells that will serve a public water system, the location, protection, construction, yield, etc. of such wells shall be in accordance with Appendices 5-D and other applicable portions of Subpart 5-1 of NYCRR Title 10.
4. A well log must be submitted to the Town for each well drilled, along with a copy of the New York State Department of Environmental Conservation Well Completion Report.

C. Pumping Tests

1. The applicant must submit a plan to the Town of Germantown Planning Board showing the wells that are to be pump tested, along with water level monitoring locations, surface water bodies and wetlands, possible pumping rates, discharge locations, schedules, and laboratory water quality testing details. The Town of Germantown may approve, approve with conditions, reject, or request more information within 45 days of receipt of such a testing plan.
2. A pumping test shall be performed on each well that is to be utilized by the proposed development in order to determine that the water supply adequately meet the needs of the applicant without adversely affecting others who may rely on the same aquifer.
3. For public water systems, all pumping tests shall be conducted in accordance with Appendix 5-D of 10 NYCRR Part 5 (Special Requirements for Wells Serving Public Water Systems) as well other applicable portions of Subpart 5-1 of 10 NYCRR. In addition for community water systems, pump tests will follow NYSDEC Appendix 10, TOGS 3.2.1 (Recommended Pump Test Procedures for Water Supply Applications).

3. Pumping tests should be conducted during a period of time of average or below average seasonal stream flow conditions (typically not during the months of March, April, and May).
4. No pumping should be conducted at or near the test well site for at least 24 hours prior to the test.
5. Pumping tests should be done when nearby wells normally in operation are running. Pumping of such other wells in the test area should be monitored.
6. A test pump capable of providing the design flow rate at the required head must be used to perform the test. Any pump failure must have no significant effect on the data or a similar termination and restart is necessary.
7. The pumping rate shall be measured using a flow meter or circular orifice weir installed in the discharge line along with a control valve. The flow meter or weir shall be calibrated at the beginning of the pumping period (all calibration measurements shall be recorded). The discharge flow rate shall be monitored and recorded manually at least once every 15 minutes during the first hour of the test and every 1 to 4 hours thereafter.

For relatively low flow rates, (< 5 gallons per minute), the flow rate may be obtained by determining the time required to fill a container of known volume (e.g., a 5-gallon bucket). The number of seconds/minutes to fill the container and the exact time of day shall be recorded.

8. The pumping test(s) shall be conducted at a pumping rate at least equal to the design pumping rate. If multiple wells are to be pumped simultaneously to achieve the necessary yield, the test should incorporate such a pumping plan.
9. Water discharged from the pumping well must be discharged a sufficient distance from the pumping well and other measured wells (minimum 200 feet) to avoid possible impacts from re-circulating the water. The water should be discharged to a drainage ditch or swale that will direct the water away from the well(s) if possible.
10. Water from the pumping well cannot be discharged into any water body or wetland if such discharge results in turbidity or erosion leading to turbidity or down stream flooding. If it is anticipated that discharged water will create flooding, erosion and/or turbidity, water must be directed to a holding area and released in a controlled manner to prevent such problems.

11. The selected pumping rate shall not vary by more than ten (10) percent during the test. Pumping rates should be frequently measured and recorded, following the schedule of the water level measurements (see below).
12. Pumping tests shall be conducted for a minimum of 72 hours at a constant pumping rate. A minimum of six hours of stabilized drawdown must be displayed at the end of the test. Stabilized drawdown is defined as a water level that has not fluctuated by more than plus or minus 0.5 foot for each 100 feet of water in the well. If stabilized drawdown is not achievable, the test period may be extended or semi-log extrapolation of drawdown versus time (or other similar methods) may be employed to demonstrate the ability of the aquifer to supply a pumping rate equal to the desired yield.
13. Water level measurements must be made to the nearest 0.01 foot. Preferred measurement methods include electronic sensors and pressure transducers.
14. Periodic water level measurements in the pumping well and in the observation wells are required immediately before the start of the test and during the pumping test at the following intervals:

Time After Pumping Started	Time Intervals
0 to 15 minutes	1 minute
15 to 50 minutes	5 minutes
50 to 100 minutes	10 minutes
100 to 500 minutes	30 minutes
500 to 1000 minutes	1 hour
1000 to 5000 minutes	4 hours

15. At least three (3) observation wells should be monitored on-site during the pumping test. Note that all site wells shall be monitored, as well as any off-site wells within 1,000 feet (if practicable). Observation wells should be located at varying distances from the pumping well in order to characterize the well's zone of pumping influence. Observation wells should be large enough to allow accurate and rapid measurement of the water levels. Observation wells should be screened in, or open to, the same formation as the pumping well.
16. The water height of any bodies of water within 1,000 feet of the pumping well shall be monitored before the pumping test, every four hours during the test, and at the end of the recovery period (see item 17).

17. Water level measurements should be collected during the recovery period for all wells using the same procedure and time pattern followed at the beginning of the pump test (see item 14). Measurements at the pumping well should continue for at least 24 hours or until the well recovers to 90 percent of the original water level.
18. A check valve must be installed at the base of the pump column pipe in the pumping well to eliminate backflow of water into the well during the recovery period.
19. Rainfall should be measured to the nearest 0.01 inch and recorded for one day preceding the pump test, during the test, and during the recovery period.

D. Laboratory Testing for Water Quality.

1. Water quality samples should be collected at the conclusion of the pumping test.
2. Water quality samples should be analyzed for the following: coliform bacteria, lead, nitrate, nitrite, iron, manganese, sodium, chloride, pH, hardness, sulfate, alkalinity and turbidity.
3. Additional tests for petroleum products or solvents may be necessary if the pumping well is located in the vicinity of a spill, petroleum storage facility, or other similar land use.
4. Tests for hazardous substance list metals, PCBs, and pesticides may be necessary if the pumping well is located adjacent to a landfill, junkyard, etc.
5. Analyses for specific chemicals may be necessary if the pumping well is located near an industry that stores and/or uses particular chemicals.
6. For public water systems, all test wells shall be tested for water quality in accordance with Subpart 5-1 of 10 NYCRR including Appendix 5-D of 10 NYCRR Part 5.

SECTION 5.0 REPORTING REQUIREMENTS

The detailed hydrogeologic report shall include, at a minimum, the items described below. Note that the all data shall be organized by either “type” (well completion reports, pumping test data and analyses, water quality reports, etc.) or by well, in tabbed appendices clearly marked showing the content of the tabbed section.

A. Description of the Proposed Development

The proposed development project must be summarized including information on property acreage; projected water demand; means of wastewater disposal; stormwater runoff control; parking areas and other impervious surfaces; fuel storage; and the number, size and distribution of proposed residential lots (if applicable).

B. Discussion of Site and Regional Hydrogeology

A written discussion of the site and regional hydrogeology shall be included. Items to be included in this discussion include:

1. Geologic setting;
2. Local drainage and watershed(s);
3. Lateral and vertical distribution of local unconsolidated and consolidated hydrogeologic units as well as their hydraulic properties;
4. Land surface elevation and relief;
5. Occurrence and flow characteristics of surface water and ground water;
6. The relationship between local ground water and surface water;
7. Well yield and depth data;
8. Local groundwater use and quality; and
9. Known or potential contamination sources.

Appropriately-scaled maps and cross-sections should be used to depict the hydrogeologic setting (see below).

C. Maps

A set of maps at appropriate scales covering the proposed development should be enclosed. The maps shall contain all existing planimetric features, topography, all proposed roads, proposed lot lines, proposed lot sites, proposed house sites, proposed septic systems, surface water features, proposed and existing wells, bedrock outcrops, karst features, linear features, springs, hydrogeologic units, etc. In addition, map(s) of static groundwater elevations shall be illustrated, along with maps showing drawdown contours and pumping groundwater elevations.

D. Cross-Sections

The report shall contain one or more cross-sections, at true horizontal scale and vertical scale (exaggerated as appropriate). The location of each cross-section shall be shown on the plan view map(s) and the cross-section shall contain the following information:

1. Geologic data including bedrock contacts and structural features if present.
2. Well site locations showing well casings, total depths, and specific capacities.
3. Elevations of ground surface, bedrock depths, and static water surfaces.
4. Final water level in each pumped well and observation well(s) at the end of the pumping tests with the corresponding pumping rate of the well.

E. Well Completion Reports

For each well drilled for the investigation, a New York State Department of Environmental Conservation Well Completion Report will be completed and enclosed. This will include a log of materials encountered that is completed by a certified well driller or a licensed/certified professional geologist. Well construction details will also be noted on each Well Completion Report, including the well number, date of construction, well location coordinates (lat/long, UTM, or State Plane), land surface elevation, total depth, well casing depth, grout depth, bentonite seal thickness, top and bottom of well screen, height of casing above land surface, static water level and date, etc.

F. Well Construction Summary

For all wells constructed for the investigation, a summary table will be provided that includes, at a minimum, the well number, completion date, land surface elevation, well diameter, total well depth, well casing depth, screened interval (if applicable), depth to bedrock, static water level (all on the same date), well yield, and aquifer.

G. Well Testing Summary

In a separate table(s), well testing results shall be summarized, including at a minimum: the well number (and pumping well number if different); date tested; duration of pumping; pumping rate; pre-pumping (static) water level; maximum observed water level drawdown; distance to pumped well; percent of available drawdown used (assume maximum available drawdown is 40 feet above well bottom or use more stringent criteria if appropriate); specific capacity; transmissivity; storativity (if available); and time to achieve 90 percent recovery (or the percent recovery after 24 hours) in the pumped well. Note that the analytical method used to calculate the aquifer transmissivity and storativity should be noted. All pumping test data will be included in the appendices.

H. Groundwater Quality

For all wells tested for the investigation, provide a table summarizing the groundwater quality and include the maximum contaminant levels (MCLs) for each tested parameter. Copies of the laboratory reports shall be included in the appendices.

I. Water Balance

The report shall contain groundwater mass balance and recharge estimates for the area. Applicable calculations and references shall be included as well as assumptions and limitations of the methods used. The report shall include a discussion of the following information, including appropriate supporting calculations and diagrams, which shall include, at a minimum:

1. Identification of the source or sources of recharge, using recharge from rainfall for normal conditions and for drought conditions (assume 60% of average annual precipitation), and the average outflow from the development area.
2. Comparison of calculated recharge to projected withdrawals associated with the development.

J. Potential Impacts to Water Quality

The report shall contain an analysis of potential impacts to groundwater and/or surface water quality that may result from the development. For example, this could include a discussion of impacts from fuel storage, stormwater runoff, nitrate loading associated with septic system effluent, etc.

Calculations should be developed and discussed in the report to estimate the overall loading of inorganic nitrogen to ground water from the development's subsurface wastewater disposal systems (if applicable). In general, the nitrate entering the ground water can be computed for a given area by dividing the annual nitrate load from the area by the annual amount of groundwater recharge (see above). Both normal and drought conditions should be assumed. In order to prevent cumulative degradation of groundwater quality in the region, the resultant projected nitrate level in ground water at the project boundary should not exceed ½ of the MCL (5 mg/L).

K. Potential Impacts of Pumping

The report will present an analysis of the magnitude and extent of water level drawdown that will result from groundwater withdrawals at the project as well as an evaluation of potential impacts of drawdown on groundwater and surface waters within a minimum of 1,500 feet from the development boundary. This analysis will be developed using standard methods and will include an analysis of potential conditions during normal and

drought periods. The possibility of other adverse affects of pumping such as altering the flow direction of groundwater from potential pollution sources, introducing zones of poor water quality, etc. must be discussed as well. For community water system wells, the zone contributing ground water (zone of contribution) for such wells must be delineated.

L. Suitability of Groundwater Resources

The consultant must prepare a preliminary written conclusion regarding the suitability of groundwater resources to support the proposed development. A comparison of projected water demands to available source capacity should be included. If applicable, mean and median yields of lot wells must be presented and compared to the 5 gallons per minute usually necessary to safely meet peak and daily needs of a typical residence. In addition, the possibility of wells on the remaining (non-tested) individual lots having inadequate yield must be discussed. Plans on how to overcome potential inadequacies must be addressed.

The adequacy of the development's drinking water quality should be evaluated. The possibility of contamination from on-site and off-site sources must be assessed. Any necessary treatment options should be identified.

M. Investigation and Mitigation Plan

The report must include a plan for investigating and mitigating existing water supply wells or surface waters in the event that either experience reductions in water level or water quality during and/or after construction of the development.