

Town of Copake

Draft Updated Zoning Law

Prepared by the Land Use Rewrite Committee

August 2015

## Table of Contents

<b>Chapter 232. ZONING</b> .....	4
Article I. Title .....	4
§ 232-1. Title and purpose. ....	4
Article II. Terminology .....	6
§ 232-2. Word usage. ....	6
§ 232-3. Definitions. ....	6
Article III. Establishment of Districts .....	31
§ 232-4. Establishment of districts; application of district regulations. ....	31
§ 232-5. Zoning Map. ....	32
§ 232-6. Interpretation of district boundaries. ....	32
Article IV. District Regulations .....	33
§ 232-7. Use regulations. ....	33
§ 232-8. Area and dimension regulations. ....	33
§ 232-9. Flood district regulations. ....	43
§ 232-10. Scenic Corridor Overlay Zone (SCOZ). ....	43
Article V. Supplementary Regulations .....	49
§ 232-11. General provisions. ....	49
§ 232-12. Prohibited acts. ....	56
§ 232-13. Off-street parking and loading. ....	56
§ 232-14. Sign regulations. ....	57
§ 232-15. Flexible lot subdivisions. ....	60
§ 232-15.1. Permanent open space in flexible lot subdivisions. ....	64
§ 232-15.2. Flexible lot subdivision procedures. ....	67
§ 232-16. Rural design and siting standards. ....	68
§ 232-17. Regulations for Specific Uses .....	71
17.1 Home Occupations. ....	71
17.2 Excavation. ....	71
17.3 Golf driving range. ....	72
17.4 Automobile repair (including body shops). ....	72
17.5 Veterinarian offices and animal hospitals. ....	72
17.6 Agricultural uses, public stables, Agricultural Soils. ....	72

Updated Zoning Law August 2015

17.7 Slaughterhouses..... 74

17.8 Private Use Solar Collectors ..... 76

17.9 Non-Commercial Wind Power Facility (NCWPF)..... 77

17.10 Vehicle Charging and Filling Station..... 81

17.11 Mobile/Manufactured Homes and Travel Trailers ..... 81

17.12 Cemeteries ..... 82

17.13 Airports and Flying Fields..... 82

17.14 Accessory Dwelling Unit..... 82

17.15. Senior Citizen Housing. .... 83

17.16 Intermediate Care Facilities; Community Residences. .... 83

17.17 Outdoor Wood Boilers ..... 83

Article VI Site Plan Review ..... 89

    § 232-18. Site plan review and approval. .... 89

Article VII Nonconforming Uses..... 100

    § 232-19. Nonconforming uses, structures and lots..... 100

Article VI. Administration and Enforcement..... 103

    § 232-20. Enforcement. .... 103

    § 232-21. Penalties for offenses. .... 104

    § 232-22. Zoning Board of Appeals..... 104

        N. Special Use Permits ..... 112

    § 232-23. Amendments..... 118

    § 232-24. Interpretation and application. .... 119

    § 232-25. Table of Use Regulations. .... 119

## **Chapter 232. ZONING**

### **GENERAL REFERENCES**

Appearance tickets — See Ch. 6.  
Boards, Commissions and Committees — See Ch. 12.  
Farming — See Ch. 123.  
Fire prevention and building construction — See Ch. 129.  
Flood damage prevention — See Ch. 135.  
Highway specifications — See Ch. 149.  
Automobile junkyards — See Ch. 156.  
Parks and recreation — See Ch. 172.  
Subdivision of land — See Ch. 197.

## **Article I. Title**

### **§ 232-1. Title and purpose.**

- A.** Scope. This chapter shall regulate and restrict the location, construction, alteration, occupancy and use of buildings and structures and the use of land in the Town of Copake and for said purposes divides the Town into zoning districts.
- B.** Title. This chapter shall be known and may be cited as the "Zoning Code of the Town of Copake, New York."
- C.** Enacting clause and purposes. This chapter is enacted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, morals, comfort, convenience, economy, town aesthetics and the general welfare and for the following additional purposes:
- (1)** To promote and effectuate the orderly physical development of the Town of Copake.
  - (2)** To encourage the most appropriate use of land in the community in order to conserve and enhance the value of buildings.
  - (3)** To provide adequate and suitably located commercial facilities.
  - (4)** To protect and enhance existing wooded areas and waterways and to preserve where appropriate the essentially rural character of the Town.
  - (5)** To encourage agriculture to continue as a land use activity in the Town because of its importance to the local economy and the preservation of open space.
  - (6)** To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, and in order to lessen congestion on streets and highways.

Updated Zoning Law August 2015

- (7) To improve transportation facilities and traffic circulation, and to provide adequate off-street parking and loading facilities.
  - (8) To realize a development plan properly designed to conserve land.
  - (9) To assure privacy for residences and freedom from nuisances and things harmful to the senses, including air and water pollution.
  - (10) To protect the community against unsightly, obtrusive and noisome land uses and operations.
  - (11) To enhance the aesthetic aspects throughout the entire community and maintain its present natural beauty.
  - (12) To minimize the hazards of flooding.
  - (13) To encourage the conservation of energy and the appropriate use of solar and other renewable energy resources.
  - (14) To assure that development will occur in a reasonable manner, with consideration of land capabilities to support development, and to assure freedom from problems (either current or future) associated with inappropriate land development methodologies.
  - (15) To provide a range of housing opportunities for all segments of the local population with due consideration for regional housing needs.
  - (16) To provide a flexible system of land use regulation that enables the Town to grow, while preserving its most important natural, historic, architectural and cultural features.
  - (17) To base such flexible land use regulations on the unique characteristics of the landscape, the needs of the people of the Town, the impact of proposed land uses on the natural and human environment, and the purposes articulated in this chapter and in the Comprehensive Plan, and to avoid a suburban pattern of development characterized by uniform lots laid out in a geometric pattern across the landscape.
- D.** Permits required. A building permit must be obtained prior to the start of any development and a certificate of occupancy obtained before any building is occupied, in accordance with the provisions of this chapter of the Code of the Town of Copake and/or the New York State Uniform Fire Prevention and Building Code.
- E.** Supersession of Inconsistent Laws. The Town of Copake Town Board hereby declares its legislative intent to supersede any provision of any local law, rule or regulation, or provision of the New York State Town Law inconsistent with this Zoning Law. The New York State Town Law provisions intended to be superseded include all of Article 16 of the Town Law and any other provision of the law that the Town may supersede pursuant to the New York State Municipal Home Rule Law and the New York State Constitution. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The

Town Board hereby declares that it would have enacted this Zoning Law and superseded such inconsistent provision had it been apparent.

- F. Repeal and Replacement of Prior Zoning Law. By this Local Law, the Town Board of the Town of Copake hereby repeals the Town's prior Zoning Law and replaces it with this Zoning Law. This shall take place at the moment this Zoning Law becomes effective.

## **Article II. Terminology**

### **§ 232-2. Word usage.**

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- B. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel." The word "person" includes an individual person, a firm, a corporation, a co-partnership and any other agency of voluntary action.
- C. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- D. The Zoning Enforcement Officer shall enforce all the provisions of this chapter. The Building Inspector/Code Enforcement Officer shall enforce all the provisions of the NYS Fire Prevention and Building Code.

### **§ 232-3. Definitions.**

As used in this chapter, the following words shall have the meanings indicated:

#### **ACCESSORY BUILDING OR STRUCTURE**

A building detached from and smaller than a main building on the same lot and used for purposes customarily incidental to those of the main building. It may, or may not, be constructed on a permanent foundation. See also cabana, pavilion, pergola, and gazebo.

#### **ACCESSORY DWELLING UNIT**

One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household, contained within a single family house or in an accessory building or structure which shall not be less than 500 square feet, and shall have a minimum of 70 square feet of habitable area, excluding kitchens, bathrooms and hallways, provided for sleeping accommodations for each person. The accessory dwelling unit shall be no larger than 2/3 of the total square footage of the principal residence, subject to maximum lot coverage restrictions contained in the Density Control Schedule.

#### **ACCESSORY USE**

A use which is customarily incidental and subordinate to the principal use of a premises, building or structure and located on the same premises as the principal use, building or structure. An

accessory use to a restaurant, tavern/bar, hotel, theater or similar facility shall not include topless dancing or other forms of entertainment in which individuals are in a state of nudity.

**ADULT ENTERTAINMENT**

An establishment which presents any of the following entertainments, exhibitions or services: adult arcade; adult bookstore, newsstand, video store or combination; adult cabarets; adult motels; adult motion picture theaters; adult theaters; nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age, and are those businesses that are distinguished from non-adult uses of similar nature due to the predominantly sexual orientation of the activity or merchandise.

**AGRICULTURAL DATA STATEMENT**

A written statement required when certain land use determinations within five hundred (500) feet of a farm operation located in a NYS Agricultural District takes place. The statement must include information about the proposed project, and is included in the application for project approval. A notice of the project application is mailed to owners of land associated with the neighboring farm operation identified in the statement. The Planning Board is required to evaluate and consider the statement in its review of possible impacts of a project on nearby farm operations.

**AGRICULTURAL DISCLOSURE NOTICE**

A written statement presented from the land grantor to any grantee or prospective buyer of land included in a New York State certified Agricultural District that discloses to such grantee that says "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under Article 25-AA of the Agriculture and Markets Law." Such statement shall be signed by both the grantee and grantor.

**AGRICULTURAL DISTRICT**

That portion of the Town of Copake that is included in the New York State Certified Agricultural District established as per State Agriculture and Markets Law 25-aa.

**AGRICULTURAL-RELATED BUSINESS**

An establishment that provides products or services to agricultural producers to support production, marketing, and distribution of their products including but not limited to hide tanning operations, farm equipment repair, farm equipment and machinery sales or rental, soil preparation services, crop services, veterinary and other animal services, farm labor and management services, and seed or fertilizer sales.

**AGRICULTURAL USE**

The production, keeping, or maintenance, for sale, lease or personal use, of plants and animals including but not limited to forages, grains and seed crops, dairy animals, poultry, livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals, bees and apiary products, fur animals, fish farming, fish hatcheries, fruits, vegetables, nursery, greenhouse, or flowers.

**AGRICULTURAL PRODUCTS PROCESSING**

A facility animals or animal's products are processed into meat foods, or a facility where plants and plant products are processed into canned, frozen, or fresh food products. A tannery shall not be considered an agricultural products processing facility.

**AGRICULTURAL STRUCTURE**

A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation but used in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation including but not limited to barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes.

**AGRI-TOURISM**

Means activities, including the production of farm products made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

**AIRPORT**

A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers. The type of airport is determined by the type of public service provided as defined by the U.S, Department of Transportation.

**ALTERATION**

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

**ALTERNATIVE SEPTIC SYSTEM**

A septic system that exceeds the minimum standards of the Columbia County Board of Health requirements and must be approved by Copake's Town Engineer.

**APARTMENT**

A single-family unit in a multiple dwelling.

**APPLICANT**

Any person, corporation or other entity applying for a building permit, certificate of occupancy, special use permit, site plan or subdivision approval, variance, or zoning amendment.

**AREA, BUILDING**

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings or structures exclusive of terraces and uncovered steps.

**AREA, LOT**

The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.

**ASSEMBLY AND FABRICATION**

The manufacturing from standardized parts of a distinct object differing from the individual components.

**ASSISTED LIVING FACILITY**

A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group

homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

**ATTIC**

That space of building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as half story in determining the permissible number of stories.

**AVERAGE LOT SIZE**

The average size of all lots to be subdivided from a parcel. Use of an average lot size instead of a minimum lot size in the RU District allow for easier protection of open spaces, more economically priced lots, and more flexibility for the subdivider. Parcels subdivided using an average lot size reduces individual lot areas and dimensional requirements, but the number of lots remains the same as permitted without lot averaging.

**BAR**

An establishment in which alcoholic beverages are served, primarily by the drink, and where food shall also be served or sold.

**BASEMENT**

A basement shall be counted as one story determining the height of a building in stories when four feet or more of its height, measured from floor to ceiling, is above average finished grade on all four (4) sides.

**BED AND BREAKFAST**

Owner-Occupied Single Family Residence, used for providing overnight accommodations, and serving only breakfast as a meal, to not more than 10 transient lodgers, and containing at least three but not more than five bedrooms for such lodgers.

**BILLBOARD**

See "sign."

**BOAT STORAGE/MARINA**

A facility for the storing, servicing, fueling, berthing, and securing of boats and which may include facilities for owners, crews and guests.

**BOARDINGHOUSE**

A building arranged or used for lodging of up to six sleeping rooms for compensation, with or without meals, and not occupied as a single-family unit.

**BODY REPAIR SHOP**

An establishment for the general repair, rebuilding or reconditioning of the body and fender, including painting, welding, and upholstering of automobiles. A body shop normally does not do mechanical repairs.

**BREWERY/DISTILLERY/WINERY**

Brewery: means and includes any place or premises where beer is manufactured for sale; and all offices, granaries, mash rooms, cooling-rooms, vaults, yards, and storerooms connected therewith or where any part of the process of manufacture of beer is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept, shall be deemed to be included in and to form part of the brewery to which they are attached or are appurtenant.

Distillery means and includes any place or premises wherein any liquors or ciders are manufactured for sale. Winery means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded and also includes a winery for the manufacture of wine in any state other than New York state and which has and maintains a branch factory, office or storeroom within the state of New York and

receives wine in this state consigned to a United States government bonded winery, warehouse or storeroom located within the state.

**BUFFER**

An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties. See also stream buffer and streamside vegetated buffer.

**BUILDABLE LAND**

That portion of a lot which is suitable for building structures and locating septic disposal facilities, excluding wetlands and watercourses, slopes exceeding 15% and flood hazard areas.

**BUILDING**

Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or chattel.

**BUILDING, ACCESSORY**

See "accessory building."

**BUILDING, DETACHED**

A building surrounded by open space on the same lot.

**BUILDING ENVELOPE**

The three dimensional space on a zoning lot of a structure[s] as permitted by the applicable height, yard setback controls & lot coverage %.

**BUILDING LINE**

The line, established by statute, local law or ordinance, beyond which a building shall not extend, as specifically provided by law.

**BUILDING, PRINCIPAL**

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

**BULK**

Describes the aggregate sum of a building, and, or, other structures on a lot. Within its zone, it is the multiple of width X length allowable within the setbacks, X height permitted that equals the volume.

**BUS SHELTER/STOP**

A small, roofed structure, usually having three walls and designed primarily for the protection and convenience of bus passengers.

**CABANA**

An accessory structure that is a changing booth with or without a roof, no more than four square feet in size, portable, and that is fully enclosed for the purposes of a clothing change, with no facilities of any kind. Cabanas shall be removed at the end of the summer season.

**CAMPGROUND or CAMP**

Any parcel or tract of land including buildings or other structures, under the control of any person, where five or more campsites are available for temporary or seasonal overnight occupancy. Seasonal is to be defined as six months subject to change by New York State.

**CAMPING UNIT**

A tent, camping cabin, recreational vehicle or other type of portable shelter intended, designed or used for temporary human occupancy.

**CAR WASH**

A business with a covered building that cars drive through for applications of powered sprays of cleanser and rinse water.

**CHANGE OF USE**

The change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential, commercial, agricultural, or industrial to one of the other uses, or change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code. Any use that substantially differs from the previous use of a building or land. Change of occupancy or change of ownership shall not be construed as a change of use.

**CELLAR**

Any space in a building the structural ceiling level of which is less than four feet above average finished grade where such grade on all (4) four sides where such grade meets the exterior walls of the building. A cellar shall not be counted in determining the permissible number of stories.

**CEMETERY**

Property used for the interment of the dead.

**CHURCH OR PLACE OF WORSHIP**

A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

**CLUB, MEMBERSHIP or NON PROFIT**

An organization catering exclusively to members and their guests, or premises and building for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending standards, merchandising or commercial activities except as required generally for the membership and purposes of such club.

**COMMERCIAL GREENHOUSE**

A structure or operation where plants are cultivated and sold for retail or wholesale purposes.

**COMMERCIAL VEHICLE**

A vehicle designated by the Department of Motor Vehicles or the Department of Transportation as commercial.

**COMMON DRIVEWAY**

A right-of-way serving more than one property.

**COMMUNITY POLE**

A pole owned and maintained by the Town Board or by a group of business people as approved by the Town Board. The pole may contain several directional signs for the purpose of directing persons to business and community establishments within the community.

**COMPLETE APPLICATION**

An application for a special use permit, site plan or subdivision approval, or variance, found by the reviewing board to satisfy all information requirements of this chapter and the New York State Environmental Quality Review Act, for which either a negative declaration has been issued or a draft environmental impact statement has been accepted as satisfactory pursuant to NYCRR 617.8 (b) (1).

**COMPREHENSIVE PLAN**

A document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's vision, goals, and conditions, and applying a general policy to obtain a uniform result and adopted pursuant to New York State Town Law Section 272-a.

**CONDOMINIUM**

A system of ownership of dwelling units, either attached or detached, established pursuant to the Real Property Law of the State of New York, in which the apartments or dwelling units are individually owned.

**CONSERVATION EASEMENT**

A perpetual restriction on the use of land, created in accordance with the provisions of Article 49, Title 3, of the Environmental Conservation Law, or §247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land and natural, cultural, historic and scenic resources.

**CONTRACTOR'S YARD**

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

**CONVENIENCE STORE**

A retail store which sells groceries and sundry items and may include the retail sale of gasoline and petroleum products for motor vehicles.

**CONVENTIONAL SUBDIVISION**

Subdivisions that comply with the minimum lot size requirements for conventional subdivisions as shown in the Density Control Schedule without setting aside land as permanently protected open space. The town wishes to discourage this type of subdivision on large parcels because of its damaging impact on the Town's rural landscape.

**CULTURAL FACILITY**

Establishments that document the social and religious structures and intellectual and artistic manifestations that characterize a society and include museums, art galleries, botanical and zoological gardens, theaters, concert hall, or other locations used for natural, historic, educational or cultural interest.

**CUSTOMARY ACCESSORY STRUCTURE**

See Accessory Building or Structure

**CUSTOMARY HOME OCCUPATION**

See "home occupation."

**DAY-CARE FACILITY**

A building occupied by persons of any age who receive custodial, supervision and personal care for less than 24 hours by persons other than parents or guardians, and in a place other than the home of the person cared for.

**DENSITY BONUS**

An increase in the allowable density that a parcel can in return for amenities desired by the town, such as preserving open space, a scenic view, or other public amenities. Density bonuses must be approved by the Town Board after a favorable advisory ruling by the Planning Board.

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to the construction or alteration of buildings, fences, walls, signs, or other structures, as well as mining, dredging, filling, paving, excavation or drilling operations.

**DORMITORY**

A building, other than a hotel or motel, containing dwelling units or rooms for the housing of nontransient persons attending or employed by a school.

**DRIVEWAY**

Land situated within a lot or way used or intended to be used to provide access to the lot by vehicular traffic.

**DRIVEWAY, COMMON**

A driveway serving no more than four lots, owned in common or created by reciprocal easements.

**DRIVEWAY, INTENSE-USE**

A means of access for motor vehicles to property upon which is situated a dwelling containing property for commercial, industrial or other nonresidential uses, and a driveway serving over 5 lots.

**DUMP**

A lot or land used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

**DWELLING**

A building designed or used principally as the living quarters for one or more families. "Dwelling" shall not include boarding house or other accommodations used for more or less transient occupancy. (See "residence, residential.")

**DWELLING GROUP**

A group of two or more dwellings occupying a lot in one ownership.

**DWELLING, MULTIFAMILY**

A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other

**DWELLING, ONE-FAMILY**

A building containing one dwelling unit only. However, a dwelling that has an accessory apartment in it shall still be considered a one-family dwelling.

**DWELLING, TWO-FAMILY**

A building designed and built for containing two dwelling units.

**DWELLING UNIT**

A building or portion thereof providing complete housekeeping facilities for one family.

**EASEMENT**

A nonpossessory interest in the land of another, usually in the form of a grant of one or more of an owner's property rights to and/or for the use by the public, a corporation, or another person or entity.

**ENVIRONMENTAL ASSESSMENT FORM**

A form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or full SEQRA Environmental Assessment Form will be completed.

**ENVIRONMENTAL IMPACT STATEMENT**

A document prepared pursuant to SEQRA, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

**EROSION**

The wearing away of surface soils by action of wind or water.

**EXTRACTIVE OPERATION**

The excavation or extraction of less than 1,000 tons or 750 cubic yards, whichever is less, during twelve successive calendar months of earth, sand, gravel, stone, quarry material, clay, loam, humus, top soil or other earth material from a lot and removal thereof from that lot. An extractive operation includes all haulageways and all equipment above, on or below the surface of the ground used in connection with the excavation, as well as all lands included in the life of the mine including the temporary storage of such materials by stock piling, if permitted. An extractive operation also means the excavation or extraction of less than 100 cubic yards or more of a

mineral(s) that is removed in or adjacent to any body of water not subject to NYSDEC permitting authority for their disturbance, "unprotected waters", under Protection Waters legislation (Article 15 of the Environmental Conservation Law) or the Public Lands Law.

**FAMILY**

One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

**FARMLAND**

The land which contributes to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this Article 25-AA of the Agricultural Districts Law and "timber processing" as defined in subdivision fourteen of Article 25-AA. Such farmland may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**FARM OPERATION**

A commercial enterprise as defined in §301(11) of the Agriculture and Markets Law of the State of New York as same is amended from time to time.

**FARM MARKET**

A location, or structure larger than 400 square feet, where one or more farmers or vendors can sell agricultural produce to the public on a permanent basis, whether seasonal or year-round.

**FARM STAND**

A temporary use of a structure including small buildings, carts, wagons or stands for the display and sale of farm products, and not more than 400 square feet in size.

**FARM WORKER HOUSING**

An accessory dwelling used to house farm workers on an agricultural operation located within a certified New York State Agricultural District.

**FINISHED GRADE**

The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of building and other structures or for other purposes, shall be the average elevation of all finished grade elevations around the periphery of the building.

**FLEXIBLE LOT SUBDIVISION**

A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where at least sixty percent (60%) of the remaining land is left in its natural open space condition in perpetuity. Flexible lot subdivisions result in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

**FLOOD AREA OVERZONE OR FAO**

Areas that are subject to periodic inundation as described by the Flood Insurance Rate Map of the Town of Copake prepared by the Federal Emergency Management Agency. These areas are not necessarily the same as wetlands, which come under the rules and regulations of the NYS DEC and the US Army Corps of Engineers.

**FLOOD HAZARD, AREA OF**

Land within a community subject to a one percent (1%) or greater chance of flooding in any given year as shown on the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency. Also commonly referred to as base floodplain or 100 year floodplain.

**FLOOD, 100-YEAR**

Floodplain or Flood Prone Area: A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded.

**FLOODWAY**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

**FUEL STORAGE AND DISTRIBUTION**

A facility designed for the bulk keeping, and distribution in above-ground containers of any fuel material in liquid, gaseous, powder or pellet form, including but not limited to gasoline, propane, diesel, kerosene, fuel oil, or natural gas. A gas station for fueling direct to cars or trucks shall not be considered a fuel storage or distribution facility.

**FUNERAL HOME**

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

**GAZEBO**

A stand alone, open frame accessory structure with or without screening, with a roof, with or without a cupola for venting, no foundation, but secured to the grade. May be more than four sides, and generally not larger than the 12' diameter with no services other than electricity.

**GRADE PLANE**

The average finished grade at or not more than six (6) feet from all the building's exterior walls.

**GREENHOUSE, COMMERCIAL**

A structure where plants are cultivated and sold commercially for retail or wholesale purposes.

**GROUNDWATER**

Water below the land surface in a saturated zone of soil or rock.

**GOLF COURSE**

- a. Not fewer than nine holes improved with tees, greens, fairways, and hazards for playing the game of golf;
- b. lanes within which golf balls can be hit (driving ranges); and
- c. Recreational facilities containing small putting greens (miniature golf).  
Accessory structures and buildings may be associated with these uses including a clubhouse, locker room, food stand, restaurant, banquet or conference rooms, except that overnight accommodations are not permitted.

**HABITAT**

The place occupied by an organism, population, or community. It is the physical part of the environment in which an organism finds its home, and includes the sum total of all the environmental conditions present in the specific place occupied by an organism.

**HAMLET**

A small unincorporated settlement that has a range of housing types, businesses, and cultural uses, often with a network of interconnected streets and blocks, public spaces and gathering places within walking distance of residences.

**HAZARDOUS SUBSTANCE**

Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof.

**HEIGHT OF BUILDING**

The vertical distance from grade plane to the average height of the highest roof surface.

**HIGH-TENSION LINE**

Any electric line operating at voltage in excess of 440 volts servicing a resident or business in the Town of Copake.

**HIGH-TENSION TRANSMISSION LINES**

Any electric line operating at a voltage in excess of 440 volts or any electric transmission line or series of lines going through the Town of Copake which is not designed to service the area but is designed solely to transport electrical energy.

**HOME OCCUPATION**

Major: A business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure which is clearly secondary to the use of the dwelling for living purposes and does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign. Such unit or accessory structure shall not employ more than three people, and shall allow customers, clients or sale representatives to enter the premises. Major Home Occupations are also those that require storage of vehicles or equipment on the residential property regardless of the number of employees. A home based day care operation caring for less than five (5) people and that meets the other portions of this definition may also be a major home occupation. A contractor's yard shall not be considered a major home occupation.

Minor: Any nonresidential use that is secondary and clearly subordinate to an existing residential use, conducted within a dwelling unit or an accessory structure by a permanent resident of that dwelling unit, which does not change the residential character of the dwelling unit or vicinity, and where no more than one person is employed, and few customers or clients enter the premises, and where signage, if present at all is limited to a small door or lawn plaque, and where no exterior storage of products or equipment are required. This work typically employs only one individual on site, produces only household quantities and types of waste, requires no outdoor material storage, and does not involve an excessive amount of delivery truck visits. A contractor's yard shall not be considered a minor home occupation.

**HOMEOWNERS' ASSOCIATION (HOA)**

An individual, partnership, association, corporation or other legal entity formed for the purpose of owning, using and/or maintaining lands for the common benefit of the lot owners within a subdivision or development.

- a. A homeowners' association must have filed an offering statement which has been accepted by the Bureau of Real Estate Financing of the New York State Department of Law, or have received a "no action" letter from the Bureau of Real Estate Financing, or have received a letter granting CP-7 treatment for the homeowners' association from the Department of Law.
- b. When permanently preserved open land is set aside in a flexible lot subdivision and that land is owned in common by a homeowners' association, the homeowners association shall be established in accordance with the following:
  - (1) The HOA must be established before the final subdivision plat is approved and must comply with all applicable provisions of the General Business Law.
  - (2) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restriction to pay fees to the HOA for taxes, insurance and maintenance of common open space, private roads and other common facilities.
  - (3) The open space restrictions must be in perpetuity.

- (4) The HOA must be responsible for liability insurance, property taxes and the maintenance of recreational and other facilities and private roads.
- (5) Property owners must pay their pro rata share of the costs in Subsection b(4) above, and the assessment levied by HOA must be able to become a lien on the property.
- (6) The HOA must be able to adjust the assessment to meet changed needs.
- (7) The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.
- (8) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- (9) The attorney for the Planning Board shall find that the HOA documents presented satisfy the conditions above and such other conditions as the Planning Board shall deem necessary.

#### **HORSE BOARDING OPERATION**

An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

#### **HOSPITAL**

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

#### **HOTEL**

A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms.

#### **HYDROGEOLOGICALLY SENSITIVE AREA**

The hydrogeologic sensitivity of a location is a relative measure of the ease and speed with which a contaminant could migrate into and within the upper-most water-bearing unit. High to very high hydrogeologic sensitivity ratings indicate that, in general, ground water is more susceptible to be impacted by surface activities.

#### **IMPERVIOUS SURFACE**

Any man-made material that does not allow precipitation and melted snow to penetrate into the soil.

#### **INN**

An establishment containing no more than 15 rooms for the housing and feeding of transient guests. An inn is distinguished from a motel or hotel by its smaller size and scale.

**JUNK YARD**

An area of land with or without buildings, which is used for the deposit, keeping storage or holding or any old or wrecked or junked or discarded or abandoned or unregistered motor vehicles which are in a condition such that they cannot be legally operated on a public highway; whether such vehicles are kept or stored for the purpose of resale of used parts therefrom, the reclamation of some or all of the materials therefrom or for the purpose of disposing of the same or any other reason. ,

**KENNEL**

Any place at which there are kept any number of animals for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

**LAUNDROMAT**

An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public.

**LENDING INSTITUTION**

Any entity, either for profit or not for profit, which holds mortgages or liens against real property.

**LIGHT INDUSTRY**

Low-impact design, manufacture, assembly, treatment or packaging of products or parts predominantly from previously processed or prepared materials (including fabrication, incidental storage, and distribution of such products or parts) provided (1) that all operations are conducted entirely within an enclosed building, (2) it does not emit smoke, noise, dust, odor, glare or vibration beyond the property boundaries, (3) that is compatible with the Town of Copake's Comprehensive Plan, (4) that it does not produce high volumes of polluting wastes; and (5) that light industry uses do not require heavy, noisy, or otherwise objectionable machinery or transporting equipment. This does not include, among other things, commercial incineration of waste. Light industry uses include, but are not limited to:

- a. Apparel and other textile products.
- b. Assembly operations
- c. Electrical and electronic machinery and equipment.
- d. Food and beverage production and processing, including but not limited to such uses as a dairy processing plant, bakery, and bottling plant.
- e. Mail order distribution center.
- f. Metal fabrication.
- g. Furniture and fixtures.
- h. Printing and publishing.
- i. Commercial storage ancillary to the authorized use.

**LOT**

A delineated area or plot of land which may be occupied or designed to be occupied by a principal building and its accessory structure or structures, including the yards required by this chapter.

**LOT, CORNER**

A lot at the locus [corner] of two [2] or more intersecting streets when the interior angle of the intersection[s] does not exceed 135 degrees. The street sides are the Front Yard Lines. The intersecting, adjoining property lines are the Side Yard Lines.

**LOT COVERAGE**

That lot area or percentage of lot area covered by buildings or structures and all related ancillary uses and/or supporting systems, including accessory buildings and structures and all impervious surfaces.

**LOT, DEPTH OF**

The mean distance from the street line of a lot to its rear line.

**LOT, FLAG (SOMETIMES REFERRED TO AS "FLAGPOLE LOT" OR "MINIMUM-FRONTAGE LOT")**

A lot shaped like a pole with a fully extended flag at the upper portion thereof, the bottom of the pole being at the street line, the "pole" portion of the lot being for use as access to the "flag" portion of the lot where the principal structure is or will be constructed. A building lot not meeting the required road frontage and characterized by a narrow strip of property by which access is gained.

Flag lots can serve to open up the interior of a large parcel while minimizing strip development of the road frontage. A strip of land or right-of-way for access to the road is owned by each parcel, eliminating the need for a new public road.

**LOT FRONTAGE**

A lot line which is coincident with a street line.

**LOT LINES**

The lines bounding a lot, as defined herein.

**LOT OF RECORD**

Any lot which has been established as such by plat, survey record or deed as shown on the records in the office of the Columbia County Clerk.

**LOT, REAR**

A lot meeting all other requirements under the Town Zoning Code and Subdivision Regulations which does not have frontage on a town road or a private road which has been constructed to town specifications.

**LOT, THROUGH**

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

**LOT WIDTH**

The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines, or the width of a lot measured along the rear line of the required front yard.

**MAJOR PROJECT**

A proposed use that requires a special use permit and that exceeds any of the thresholds for a minor project.

**MAJOR SUBDIVISION**

A subdivision of land resulting in the construction of a new public or private road and/or in the creation of five or more lots, or any other subdivision classified as major by the Planning Board because of its probable major impact on the surrounding area. The aggregate number of subdivisions within the past 20 years from the date of application cannot exceed the threshold for a major subdivision.

**MANUFACTURING**

Any process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged in quantity.

**MANUFACTURED HOME**

A factory-built, single-family dwelling that meets the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec 5401), commonly known as the HUD code, and the New York State Uniform Fire Prevention and Building Code. Mobile homes and modular homes are both manufactured housing. Modular homes typically are manufactured in one or more pieces and transported to the site for placement on a permanent foundation. Manufactured homes and mobile homes are normally built in one or two pieces and transported to the site with a chassis that allows the home to be moved. A manufactured house is a house built in conformity with the provisions of the federal HUD Code and the New York State Uniform Fire Prevention and Building Code. Mobile homes are those built prior to the adoption of the HUD Code.

**MANUFACTURED HOME, SINGLE-WIDE**

A single-family dwelling unit, transportable in one section, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 700 or more of square feet, 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. This term is synonymous with a house trailer. A recreational vehicle is not included in this definition.

**MEDICAL FACILITY**

A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical issues.

**MINOR PROJECT**

A proposed use that requires a special permit and that falls below all of the following thresholds:

- a. Construction of four or fewer multifamily dwelling units.
- b. Construction of facilities or structures for a nonresidential use covering no more than 2,000 square feet of building footprint.
- c. Minor alteration of existing structures or expansion of such structures by no more than 1,000 square feet.
- d. Alteration and active use of 5,000 square feet or less of land, with or without structures, in connection with the special use permit.

**MINOR SUBDIVISION**

A subdivision of land resulting in the creation of four or fewer lots, with no new roads, and classified by the Planning Board as a Minor Subdivision because of its probable minor impact on the surrounding area.

**MOBILE HOME**

Manufactured homes built prior to the adoption of the 1978 HUD Code.

**MODULAR HOME**

Prefabricated dwellings made in a factory and consisting of two or more sections. The siding, drywall, fixtures, plumbing and wiring are added in the factory and already in place upon siting. A modular home must be built at a factor to conform to all building codes.

**MOTEL**

A building or group of buildings containing individual living and sleeping accommodations for transient use, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers.

**MOTOR VEHICLE REPAIR**

A building primarily used for the service and/or repair of motor vehicles or auto repair shops including body repairs.

**MOTOR VEHICLE SALES**

The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles, trucks, vans, trailers or recreational vehicles, and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

**NONCONFORMING AREA**

That part of a building, other structure or tract of land which does not conform to one or more of the applicable density and dimension regulations of this chapter, either following its effective date or as a result of subsequent amendments thereto.

**NONCONFORMING LOT**

Any lot whose area and/or dimensions do not conform to the requirements of the Zoning District in which it is located.

**NONCONFORMING STRUCTURE**

A structure or building, the size, dimensions, or location or which fails to conform to the present requirements of the zoning district in which it is located.

**NONCONFORMING USE**

Any use of a building, other structure or tract of land which does not conform to the use regulations for the district in which such use is located, either at the effective date of this chapter or as a result of subsequent amendment thereto.

**NUDITY**

Uncovered to less than opaquely covered postpubertal human genitals or pubic area, the postpubertal human female breast below the point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

**NURSING HOME**

A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**OFFICE, PROFESSIONAL**

A structure used for a member of a recognized professional or government entity maintained for the conduct of operations and furnished with desks, tables, files, and communication equipment including but not limited to engineer, architect, surveyor, or psychologist. It does not involving the manufacture, storage, display or direct retail sale of goods.

**OFFICIAL NEWSPAPER**

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

**OPEN SPACE LAND**

Land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure except agricultural buildings. Open space may be included as a portion of one or more house lots provided the lot(s) are five (5) acres or more in size, and are contiguous to form a larger, unfragmented open space area. Open space lands may also be contained in a separate open space lot but shall not include private yards within fifty (50) feet of a principal structure.

**OUTDOOR STORAGE**

The keeping, in an unenclosed area, of any equipment, construction material, landscaping material, merchandise, or vehicles in the same place for more than 24 hours and not associated with an outdoor retail sales establishment. Parking lots and junk yards shall not be considered outdoor storage.

**OUTDOOR WOOD FURNACE**

A fuel burning device that (a) is designed to burn wood; (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. A commercial-sized outdoor wood boiler is a unit with a thermal output rating greater than 250,000 British thermal units per hour (Btu/h). A residential-sized wood boiler is a unit with a thermal output rating of 250,000 Btu/h or less. An outdoor wood boiler includes those wood boilers that are partially or completely enclosed in a non-residential building.

**PARKING LOT, COMMERCIAL**

Any lot or portion thereof designed or used for the purpose of commercial parking. Commercial parking lots in residential districts shall only provide parking for the immediate requirements of commercial uses allowed in those districts. Commercial parking lots shall provide, as needed, screening or buffering at the discretion of the Planning Board.

**PAVILION**

A stand alone, open frame, roofed garden accessory structure on footings without screening. It is on grade for sitting only, with or without a cupola vent and no services.

**PERGOLA**

A stand alone, open frame, garden accessory structure with an open roof lattice type screening for climbing plants, providing limited shading and having no services. It is usually a colonnade along a walk.

**PERMITTED USE**

Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district and for which no review by the Planning Board is required. However, a building permit issued by the Building Inspector may be required.

**PLAT**

A subdivision map or plan approved by the Planning Board pursuant to the Town of Copake Subdivision Regulations.

*Editor's Note: See Ch. 197, Subdivision of Land.*

**PLATFORM OF A DRIVEWAY**

That portion of a driveway contiguous to a road where vehicles stop before entering the road from the driveway.

**PLOT PLAN**

A map or plan showing the boundaries of a parcel and all structures and important physical features on it, drawn to scale with accurate dimensions.

**POULTRY**

Domesticated or wild game birds raised for human consumption, but not including ostriches or other ratites.

**POULTRY OR RABBIT PROCESSING FACILITY**

An enclosed farm building where poultry or rabbits are killed and prepared for sales for human consumption.

**POSTER**

A temporary, nonpermanent device, which announces, directs or advertises any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, show, drive, movement or event.

**POWER PLANT**

A facility that is designed to generate electricity.

**PREMISES**

A lot, together with all the buildings and uses thereon.

**PRIMARY CONSERVATION AREA**

The area delineated in a flexible lot subdivision to have priority resource areas to be conserved including, but not limited to, streams, floodplains, wetlands, critical habitats, steep slopes over fifteen percent (15%), areas with rocky outcrops, agricultural lands, and groundwater recharge areas.

**PRIME SOILS**

Soils: land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding.

**PRINCIPAL USE**

The main use of a lot or structure.

**PRIVATE ROAD**

A right-of-way, the entire length of which must be wholly owned by the owners of the properties it serves or a single entity such as a home owners' association.

**PUBLIC UTILITY**

A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary to the public health, safety, and welfare including all uses deemed to be a public utility by New York State. Other uses may be a public utility if it provides a service that is essential to the public health, safety and general welfare, is regulated by a government agency, is granted an exclusive or near exclusive franchise for a specific geographic area, and is required to provide service to all who apply within their franchised area.

**RECHARGE AREA**

The land area that replenishes underground water reserves.

**RECREATIONAL BUSINESSES**

A place designed and equipped for the conduct of sports and leisure time activities for profit. This could be but is not limited to include a bowling alley, skating rink, dance hall or pool hall.

**RECREATIONAL VEHICLE**

A vehicular camping unit primarily designed as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicles include but are not limited to camping trailers, fifth wheel trailers, motor homes, park trailers, travel trailers and truck campers.

**RESEARCH LABORATORY**

An establishment or facility for carrying on investigation in the natural, physical or social science or engineering and development as an extension of investigation with the objective of creating end products and shall include pilot plant operations.

**RESIDENCE, RESIDENTIAL**

A building or any part of a building which contains living and sleeping accommodations for permanent occupancy. "Residences," therefore, include all one-family and multifamily houses. However, "residences" shall not include the following:

- a. Transient accommodations, such as hotels, motels, boarding houses, and hospitals; or
- b. That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

**RESTAURANT**

An establishment where food and beverages are prepared, served and consumed, mostly within the principal building and where ordering and pickup of food may not take place from an automobile.

**RESORT HOTEL, RESORT RANCH or RESORT LODGE**

An area of land on which is located a hotel or group of buildings containing living and sleeping accommodations hired out for compensation, which has a public lobby serving guests and contains one or more dining rooms and recreation facilities.

**RETAIL STORE**

A business establishment which sells goods and merchandise to consumers or other businesses at retail prices.

**RETREAT**

A facility used for conferences, seminars, or periods of seclusion, retirement, or solitude, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, meeting rooms, fitness and health facilities, and serves primarily for conference or retreat guests.

**RIDGELINE**

The narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

**RIDING ACADEMY**

Any establishment where horses are kept for riding, driving or stabling for compensation. According to New York State AML, riding academies are not considered farm operations.

**RIGHT-OF-WAY**

A legally approved private thoroughfare of at least 50 feet in width that affords a means of access to a lot or lots not situated on an existing public road, street or way, which must be maintained by the abutting owners at their sole cost and expense or by the developer of an approved subdivision.

**ROAD FRONTAGE**

The distance along a street line measured at the front of an abutting lot.

**SCHOOL**

A structure or structures used for academic or technical instruction to students, such as public or private schools that include any combination of grades from nursery school or kindergarten through the twelfth grade, as well as trade, business, technical schools, colleges, or universities.

**SECONDARY CONSERVATION AREA**

The area delineated in a flexible lot subdivision to have secondary resource areas to be conserved including, but not limited to, healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing

the site's rural past, significant natural areas and features, historic structures or sites, and visually prominent features such as stone walls, knolls, or hilltops, locations having traditional character, scenic viewsheds, and trails.

**SENIOR CITIZEN HOUSING**

Multifamily housing designed for people 55 or older. This includes adult retirement community, continuing care community, and retirement communities.

**SEPTIC**

An underground system with a tank used for the decomposition of domestic wastes. Also known as an on-site waste water disposal system.

**SEQRA**

Review of an application according to the provisions of the State Environmental Quality Review Act, (New York State Environmental Conservation Law, Article 8, and its enacting regulations 6 NYCRR, Part 617) which incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

**SERVICE BUSINESS OR SERVICE ESTABLISHMENT**

A retail shop rendering a service only, such as a barbershop, repair shop, etc. "Service business" does not include other uses separately listed in the Table of Use Regulations.

**SETBACK**

The distance in feet from any property line to any structure or accessory use on a lot.

**SHED**

An accessory structure or building up to 120 square feet in size used primarily for storage purposes.

**SIDEWALK**

A paved, surfaced, or leveled area, paralleling and usually separated from the traveled way and used as a pedestrian walkway.

**SIGN**

Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement. A "sign" includes a billboard, neon tube, fluorescent tube or other artificial light or string of lights outlining or hung upon any part of a building or lot for the purposes mentioned above, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.

**SIGN, ADVERTISING**

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises, if at all.

**SIGN AREA**

The area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. Any neon tube, string of lights or similar device shall be deemed to have minimum dimensions of one foot.

**SIGN, BUSINESS**

A sign which directs attention to a business or profession conducted on the premises. "

**SIGN, DIRECTLY ILLUMINATED**

A sign which incorporates any artificial lighting as an inherent part or feature.

**SIGN, FLASHING**

An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

**SIGN, INDIRECTLY ILLUMINATED**

A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

**SIGN, ILLUMINATED**

A sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

**SIGN, REPRESENTATIONAL**

Any three-dimensional sign which is built so as to physically represent the object advertised.

**SINGLE OWNERSHIP**

Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 30 years, regardless of any division of such land into parcels for the purpose of financing.

**SKETCH PLAN**

Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for the initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

**SOLAR COLLECTORS**

An energy system designed to provide heating, cooling, hot water or electricity from sunlight.

**STABLE**

A use or building or structure where horses are boarded or riding lessons, training or instruction is given for compensation. A public stable also includes a commercial horse boarding operation as that term is defined in the Agriculture and Markets Law, §301.

**SOILS OF STATEWIDE SIGNIFICANCE**

This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. Criteria for defining and delineating this land are determined by New York State. These include those soils that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some states, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

**SPECIAL USE PERMIT**

An authorization of a permitted use in the Town of Copake Zoning Law, subject to special requirements to assure that the proposed use is in harmony with the Zoning Law and will not adversely affect the neighborhood if such requirements are met.

**STEEP SLOPE**

Land areas where the slope exceeds fifteen percent (15%).

**STREAM BUFFER**

A 100' area extending along both sides of a water course, measured from the edge of the waterway, and any adjacent wetlands, floodplains or slopes where clearing, soil removal or disturbance, filling, dumping, ditching, storage and use of pesticide or herbicides, placement of septic systems and placement of dwellings, other kind of development, mining and commercial logging are prohibited in order to protect water quality and ecological health of the streams.

**STREAMSIDE VEGETATED BUFFER**

A 20' area, measured from the edge of the waterway, of undisturbed vegetation designed to conserve the areas immediately adjacent to streams and rivers extending along both sides of a water course and any adjacent wetlands, floodplains or slopes.

**STORMWATER MANAGEMENT**

The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORAGE, Commercial**

A building or part of a building no larger than 20,000 square feet including existing structures such as barns, for storing of goods, wares, and merchandise for the particular commercial establishment for which it is associated.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORY**

The part of a building comprised between a floor and the floor or roof next above it. (See "attic," "basement" and "cellar.")

**STORY, HALF**

The portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 the floor-to-ceiling height of the story below.

**STREAM**

Perennial and intermittent water courses identified through site inspection and United States geological survey (USGS) maps. Perennial streams are those depicted on a USGS map with a solid blue line. Intermittent streams are those depicted on a USGS map with a dotted blue line.

**STREET**

An existing public way or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by the Town Planning Board and/or recorded in the office of the County Clerk.

**STREET WIDTH**

The width of the right-of-way, or the distance between property lines on opposite sides of a street.

**STRUCTURE**

A static construction of building materials, including buildings, stadiums, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, manufactured homes, tanks, fences and poles and any fixtures, additions or alterations thereto.

**SURFACE WATER**

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, and all other bodies of surface water, natural or artificial, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters).

**TEMPORARY**

A structure or use allowed for a limited period of time that is measured in days to several months within any given year.

**TELECOMMUNICATION TOWER**

A structure or location designed or intended to be used, or used to support antennae. This includes, without limitation, free-standing towers, guyed towers, monopoles, structures such as a church steeple, silo, water tower, sign or other structures intended to mitigate the visual impact of an antenna or the functional equivalent or such, while serving to support antennae. It is a

structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications.

**TOWNHOUSE**

A building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit.

**TRAIL**

A cleared way for pedestrians, horses, and/or bicycles that may or may not be improved with paving or other surfacing.

**UNIFORM CODE**

The New York State Uniform Fire Prevention and Building Code.

*Editor's Note: See Ch. 129, Fire Prevention and Building Construction.*

**UNIQUE GEOLOGICAL FEATURE**

Locations that have scientific, educational, cultural, aesthetic, and/or economic significance. Geologic structures, and landscapes represent the best examples of their kind (e.g. type section for the Copake Limestone, etc.). Culturally significant sites are places where cultural or historical events have occurred due to a geologic feature or landscape (e.g. Copake Iron Works and associated mines). Aesthetically significant sites include landscapes that are visually appealing (e.g. Taconic State Park). Similarly, economically significant features are important tourism destinations due to their characteristics.

**URGENT CARE FACILITY**

A medical facility that is a walk-in clinic focused on the delivery of ambulatory care in a dedicated medical facility outside of a traditional emergency room. Urgent care centers primarily treat injuries or illnesses requiring immediate care, but not serious enough to require an emergency room visit.

**USE**

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

**USE, NONCONFORMING**

An established use of a building, structure or land lawfully existing prior to or at the time of the adoption of this Zoning Law which does not conform to the uses permitted by this chapter as same apply to the location in which the building, structure or land is located.

**VARIANCE, AREA**

A variance from the density or dimensional requirements or supplementary regulations of a related character (such as a geometric change in the amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

**VARIANCE, USE**

A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

**VEHICLE FUELING STATION**

An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery of gasoline to a motor vehicle or any other motor vehicle fuel or oil and other lubrication substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating and washing.

**VEHICLE CHARGING STATION**

An area of land, including structures thereon, or any building or part thereof that is used primarily for the sale and direct delivery to the motor vehicle of electricity for charging batteries contained in electric cars.

**VETERINARY HOSPITAL**

A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**WAREHOUSE**

Part of an Approved Farm Operation for wine making, whereby a bona fide wine producing facility, may receive consignments & store wines from other sources, on the same premises.

**WATER BODY**

Water-body: any natural or man- made body of water, such as a pond, lake, wetland, or wet area which does not necessarily flow in a definite direction or course.

**WATER COURSE**

Watercourse: a permanent or intermittent channel or stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERSHED**

Watershed: the area which is a drainage basin for a particular freshwater body.

**WETLAND**

Wetlands: lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation.

**WHOLESALE BUSINESS**

A business or service conducted on a wholesale basis (not open to the general public).

**WIND TURBINE**

Any mechanism designed for the purpose of converting the kinetic energy of wind into electrical or mechanical energy that includes a system consisting of a wind turbine, a tower, and associated control or conversion electronics.

**WIND TURBINE, COMMERCIAL**

One or more wind turbines with a generating capacity of 27.5 kW or greater designed for off-site power consumption through the grid of an electrical utility company.

**WIND TURBINE, NON-COMMERCIAL**

When not used in connection with farm operation, an NWPF is defined as a single wind turbine with a generating capacity of 27.5 kW or less designed solely for on-site power consumption except that unused or excess power may be sold to an electrical utility company in accordance with the provisions of Section 66-1 of the New York State Public Service Law.

When used in connection with “farm operation” as such is defined in Section 301, subdivision 11 of the New York State Agriculture and Markets Law (NYSAML), an NWPF is considered an on-farm building and is further defined as a single wind turbine designed solely for on-site power consumption as governed by the NYSAML and/or Section 66-1 of the New York State Public Service Law.

**WIND TURBINE TOWER**

The support structure to which a nacelle and rotor blade are attached.

**WIND TURBINE TOWER HEIGHT**

The height from the original grade of the land to the highest point of any part of the wind turbine including the top of the blade when it is in the vertical position.

**VIEWSCAPE**

The vista visible from one or more viewing points that encompasses a multitude of elements, both natural and man-made, and that gives the landscape its identity.

**YARD, FRONT**

A yard extending across the full width of the lot and lying between the front lot line of the lot and nearest point of the principal building.

**YARD, REAR**

A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest point of the principal building.

**YARD, REQUIRED**

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

**YARD, SIDE**

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

**ZONING LAW OR THIS CHAPTER**

The officially adopted Zoning Law of the Town of Copake, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.

## Article III. Establishment of Districts

### § 232-4. Establishment of districts; application of district regulations.

A. In order to fulfill the purpose of this chapter, the Town of Copake established and is hereby divided into the following zoning districts:

<b>District</b>	
H	Hamlet (Copake, Copake Falls, North Copake, Craryville)
HB	Hamlet Business
HWB	Highway Business
MU-INST	Mixed Use, Institutional
RE	Resort
RU	Agriculture and Rural Residential District
CL	Copake Lake
TS	Taconic Shores
CRS	Chrysler/Rhoda/Snyder Ponds
FAO	Flood Area Overlay Zone
SCOZ	Scenic Corridor Overlay Zone

#### B. Purpose of Zoning Districts

RU- Agriculture and Rural Residential: To protect the Town's rural atmosphere, open spaces, agricultural land uses and its environment including but not limited to water, air, biodiversity, habitats and Copake's scenic character. An additional purpose is to allow agriculture, agribusinesses, low density residential uses, home occupations and other low intensity uses.

CL- Copake Lake: To improve lake water quality while recognizing the small lot, high density character of the shore development. An additional purpose is to allow residential uses, minor home occupations and lake-oriented recreational businesses.

TS – Taconic Shores: To improve lake water quality while recognizing the small lot, high density character of the shore development. An additional purpose is to allow residential uses and minor home occupations.

## Updated Zoning Law August 2015

CRS – Chrysler/Rhoda/Snyder Ponds: To maintain and improve the water quality of these ponds through appropriate regulation within their watersheds while allowing for lower density, larger lot residential uses.

HWB – Highway Business: To allow for a mix of residential and small to moderate scale business use.

H- Hamlet: To promote higher density, hamlet-scale residential uses on smaller lots. A further purpose is to allow for cultural events and uses that promote a sense of place and community. The Hamlet District supports continuation of a network of interconnected streets and blocks. The minimum lot size required in the hamlet district is dependent upon whether public waste treatment (sewer) facilities are present.

HB-Hamlet Business: To allow for and promote smaller scale business, commercial, retail and service uses compatible with a main street setting. A further purpose is to allow for community, government, and cultural uses. This district is the prime retail, service and cultural area within the hamlet that is designed to support residents and visitors.

MU-INST– Mixed Use, Institutional: This district is designed to promote a mix of non-retail uses of moderate to large scale including highway oriented businesses, offices, light manufacturing, cultural venues, and outdoor recreation.

RE-Resort: To enhance recreation, resort and tourism-oriented uses.

FAO – Flood Area Overlay: To protect areas subject to inundation.

SCOZ-Scenic Overlay: To protect the Town’s Route 22 corridor which comprises the most scenic and environmentally sensitive areas of the Town and to preserve existing open land now being used in agriculture.

C. No land or building shall hereafter be used, occupied, erected, moved or altered unless in conformance with the regulations hereinafter specified for the district in which it is located.

### **§ 232-5. Zoning Map.**

The location and boundaries of said zoning districts are shown on the map entitled "Zoning Map" certified by the Town Clerk as adopted. Said map, together with everything shown thereon and all amendments thereto, is hereby adopted and is declared to be an appurtenant part of this chapter.

### **§ 232-6. 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:

A. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, public utility easements and aqueducts or watercourses, said boundaries

shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a center line or right-of-way line of such street, highway, public utility, aqueduct or watercourse is moved a maximum distance of 50 feet.

- B.** Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C.** Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- D.** Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion.
- E.** In all other cases, where not dimensioned, the location of boundaries shown on the Map shall be determined by the use of the scale appearing thereon.

## **Article IV. District Regulations**

### **§ 232-7. Use regulations.**

No building or premises shall be erected, altered or used except for one or more of the uses authorized under the Table of Use Regulations for the zoning district in which the property is located.

### **§ 232-8. Area and dimension regulations.**

- A.** Purpose. The purpose of this chapter shall be as outlined in § 232-1 and in accordance with the standards set forth herein.
- B.** Density control schedule. The attached schedule of density control regulations is hereby adopted and declared to be a part of this chapter and is hereinafter referred to as the "Density Control Schedule." Minimum lot sizes are per use except as specifically noted.

Table 1. Density Lot Width, Setback, and Other Dimension Requirements

District	District Code	Lot Size and Density Requirement <sup>1</sup>	Min. Lot Width, Feet	Min. Front Yard, feet	Min. Side Yard, Feet, Each side	Min. Rear Yard, Feet	Max Height, Stories	Max Height, feet	Max Lot Coverage Including Impervious Surfaces
<b>Rural Residential</b>	RU	3 acres average lot size <sup>2</sup> with individual septic systems.  Major subdivisions must meet requirements for a flexible lot subdivision pursuant to Section 232-15.	200	50	35	75	2 ½	35	20%
<b>Hamlet (includes Copake, Copake Falls, North Copake, West Copake, and Craryville Hamlets)</b>	H	<u>With no public or community sewer available</u>  Basic Conservation <sup>3</sup> : 2 acres minimum lot size. Enhanced Conservation <sup>4</sup> : 1 acre minimum lot size with alternative septic system with Best Site Design <sup>5</sup> Standards.	75	20 min 50 max	30	75	2 ½	35	25%

<sup>1</sup> The maximum ratio of lot width to lot depth shall be 1:3. Use footnotes 2, 4, and 5 wherever basic conservation, enhanced conservation and best site design standards are mentioned.

<sup>2</sup> Average lot size: The size of the lots created in a subdivision may be averaged together. Use of an average lot size can result in variably sized lots provided that the average of all lots created in a subdivision is 3 acres in the RU district.

<sup>3</sup> Basic Conservation: This lot size or density shall be allowed when the basic Department of Health standards are met for conventional septic systems and private wells provided the average lot size created through a subdivision is 3 acres.

<sup>4</sup> Enhanced Conservation: A density bonus is allowed when an applicant provides alternative septic systems and best site design practices enhanced for their parcel to include alternative septic systems and best site design pursuant to 232-8 (C).

<sup>5</sup> Best Site Design Standards: See below in 232-8 (C).

Updated Zoning Law August 2015

District	District Code	Lot Size and Density Requirement <sup>1</sup>	Min. Lot Width, Feet	Min. Front Yard, feet	Min. Side Yard, Feet, Each side	Min. Rear Yard, Feet	Max Height, Stories	Max Height, feet	Max Lot Coverage Including Impervious Surfaces
<b>Hamlet (includes Copake, Copake Falls, North Copake, West Copake, and Craryville Hamlets)</b>	<b>H</b>	<u>With public or community sewer available</u> ½ acre minimum lot size.	50	20 min 50 max	15	40	2 ½	35	50%
<b>Hamlet Business (Includes Copake, Craryville, Copake Falls, West Copake areas)</b>	H-B	Basic Conservation: 2 acres minimum lot size  Enhanced Conservation: 1 acre minimum lot size with alternative septic system with Best Site Design Standards.	75	20 min 50 max	30	60	2 ½	35	50%
<b>Highway Business</b>	HW-B	2 acres minimum lot size	100	50	30	70	3	40	50%

Updated Zoning Law August 2015

<b>District</b>	<b>District Code</b>	<b>Lot Size and Density Requirement<sup>1</sup></b>	<b>Min. Lot Width, Feet</b>	<b>Min. Front Yard, feet</b>	<b>Min. Side Yard, Feet, Each side</b>	<b>Min. Rear Yard, Feet</b>	<b>Max Height, Stories</b>	<b>Max Height, feet</b>	<b>Max Lot Coverage Including Impervious Surfaces</b>
<b>Copake Lake</b>	CL	Basic Conservation: 3 acres minimum lot size. Enhanced Conservation: 2 acres minimum lot size with Best Site Design Standards.	150	50	35	75	2 ½	35	20%
<b>Chrysler Rhoda Snyder Ponds</b>	CRS	Basic Conservation: 3 acres minimum lot size. Enhanced Conservation: 2 acre minimum lot size with alternative septic system with Best Site Design Standards for minor subdivisions. Major subdivisions must meet requirements for a flexible lot subdivision pursuant to Section 232-15.	200	50	35	75	2 ½	35	20%
<b>Resort</b>	RE	Basic Conservation: 4 acres lot size with conventional individual septic systems  Enhanced Conservation: 2 acres with alternative septic system and Best Site Design Standards. Major subdivisions must meet requirements for a flexible lot subdivision pursuant to Section 232-15.  1 acre minimum lot size with central sewer/community system	200	50	20	75	2 ½	35	20%
<b>Mixed Use Institutional</b>	MU-Inst	2 acres minimum lot size	150	50	20	60	3	40	20%

Updated Zoning Law August 2015

<b>District</b>	<b>District Code</b>	<b>Lot Size and Density Requirement<sup>1</sup></b>	<b>Min. Lot Width, Feet</b>	<b>Min. Front Yard, feet</b>	<b>Min. Side Yard, Feet, Each side</b>	<b>Min. Rear Yard, Feet</b>	<b>Max Height, Stories</b>	<b>Max Height, feet</b>	<b>Max Lot Coverage Including Impervious Surfaces</b>
<b>Taconic Shores</b>	TS	No further subdivision of lots is allowed.							
<b>Nonconforming lots, Preexisting</b>	--	No further subdivision of lots is allowed for an existing undersized lot. In no case shall these dimensions be exceeded.	50	25	10	25	2 ½	35	25%

C. Enhanced Conservation and Best Site Design Standards:

- (1) Developments that incorporate alternative septic system design and best site design methods as outlined in this sub-section are considered to have implemented improvements which help ensure the protection of natural resources in the Town of Copake, particularly related to water quality. As an incentive to encourage use of these best practices, the Town of Copake allows slightly higher density than with conventional systems or where best site design practices are not used. These practices are not required however. Should an applicant for development seek this density bonus, the procedures of this sub-section shall be followed.
- (2) Where best site design standards are desired for obtaining enhanced conservation density as described in Table 1, a qualified engineer shall use the following guidelines and apply one or more of the following methods as appropriate to the site in order to control stormwater runoff and erosion so that peak stormwater runoff rates from all new development shall be less than or equal to the peak runoff rates from the site's predevelopment conditions for the 5, 25 and 100-year design storm events. The stormwater design shall be treated through low-impact or other best management practices outlined below, or consistent with the Low Impact Development Design Strategies: An Integrated Design Approach (Washington, DC, Environmental Protection Agency, January 2000), which are incorporated by reference.
  - a. Low Impact Development Standards.
    - Use of permeable pavers on driveways, roads, parking lots, sidewalks
    - Use of permeable surfaces such as gravel roadways or driveways
    - Bioretention areas
    - Filter and buffer strips
    - Dry wells or cisterns
    - Swales, grass infiltration areas or other ponding areas
    - Inlet and outlet controls
    - Rain Barrels (inexpensive and effective)
    - Infiltration trenches
    - Green rooftops
    - Ground cover maintenance and use of plant material
- (3) In order to be eligible for the enhanced conservation density, alternative or innovative wastewater treatment systems shall be provided for to handle wastewater. These include mound systems and low pressure dosing systems. Innovative systems are those that remove more nitrogen and include aerobic treatment units, sand filters or constructed wetlands.
- (4) Impervious surfaces shall be below 15% of the total lot size.
- (5) The Planning Board may require additional vegetated stream buffers beyond the required setback.
- (6) Utilize green infrastructure methods from the New York State Green Infrastructure Guidelines.
- (7) Along shorelines of Copake Lake, Robinson Pond, Taconic Lake, and Chrysler, Rhoda, Snyder Ponds, a shoreline protection buffers shall be established to include all lands from the waterline back 20 feet. No more than 20% of the lineal measurement of the shoreline on any given parcel

## Updated Zoning Law August 2015

of land may have vegetation removed for view corridors or water access. These protections are designed to protect water quality and natural vegetation along the shoreline. There shall be no other clearing, bulk-heading, or rip-rapping within the overlay zone. On lots including shorelines, there should be 150' setbacks from septic systems from the shoreline, less than 15% impervious cover, use of Low Impact Development methods, and rooftop disconnection of water runoff to the maximum extent feasible.

- D. Front yard setback. On streets with less than 50 feet of right-of-way, the front yard setback shall be measured from the center line of the existing right-of-way, and 25 feet shall be added to the front yard setback.
- E. Corner clearance. For the purpose of minimizing traffic hazards at street intersections or any corner lot no obstruction between the height of 2 1/2 feet and 10 feet above the adjacent center line elevation shall be permitted to be planted, erected or maintained within the triangular area formed by the intersecting pavement lines or their projections, where corners are rounded, and a straight line joining the pavement lines at points 50 feet distant from their point of intersection.
- F. Corner lots. Wherever a side is adjacent to a street, the standards and setback for front yards shall apply. The intersecting, adjoining property lines are side lines and there are no rear yards.
- G. Projections into required yards from structures.
  - (1) The following projections into required yards may be permitted:
    - (a) Open fire escapes: four feet into a required side or rear yard.
    - (b) Awnings or movable canopies: six feet into any required yard.
    - (c) Cornices, eaves and other similar architectural features: three feet into any required yard.
  - (2) Any open or enclosed porch or carport shall be considered a part of the building in the determination of the size of the required yard or lot coverage.
  - (3) Accessory uses not enclosed in a building shall not be located in a required front yard but may be located in a required side or rear yard. (4) Accessory buildings shall not be located in front yards; nor within 10 feet of a side or rear property line; and shall not block any window or door of the principal structure.
  - (4) Driveways shall be set back at least 10 feet from side lot lines
- H. Height exceptions.
  - (1) District building height regulations shall not apply to flagpoles, radio or television antennas, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, parapets or railings, water tanks or cooling towers or any similar structures, provided that such structures in their aggregate coverage occupy no more than 10% of the roof area of the building. Barns, grain elevators and silos may exceed height limitations of this chapter.

Updated Zoning Law August 2015

- (2) Notwithstanding the above, an additional silo, grain elevator or barn or an addition to an existing barn, grain elevator or silo is permitted in the front yard, provided that such new barn, grain elevator or silo or addition is not closer to the front line than the existing silo, grain elevator or barn.
  - (3) Solar energy equipment, mounted on a roof, shall meet the Uniform Fire Prevention and Building Code standards.
- I. Compliance with minimum lot size (Density Schedule) requirement.
- (1) Where two or more principal residential structures are permitted by this chapter to be located on the same lot, the minimum lot size per density schedule requirement must be complied with. See § 232-8B.
  - (2) A residential lot of required or larger than required size as set forth in this chapter shall not be reduced in size for transfer of ownership if such lot so subdivided will form one or more lots which shall not be in compliance with the requirements for the minimum lot size per dwelling unit for the district in which such lot or lots are situated, except as provided in § 232-19 (C)(2).
- J. Side yards for semidetached and attached dwellings. Side yards for semidetached and attached dwellings shall be required at the ends of the total structure only.
- K. Two-family or multifamily residences. The conversion of existing structures to two-family or multifamily residences or construction of new two-family or multifamily residences shall be allowed in any district where such residences are permitted, subject to the following conditions:
- (1) The required minimum lot area shall be computed by adding 10,000 square feet for each dwelling unit over one to the minimum lot area for the district in which located.
  - (2) It shall be certified by the Columbia County Health Department that water and sewage disposal are in compliance with New York State standards.
  - (3) The premises shall be in compliance with the applicable New York State Fire Prevention and Building Codes.
- L. Solar Collectors and Equipment. Satellite dish antenna and solar energy equipment shall be considered accessory uses and shall not be located in a front yard nor within 10 feet of a side or rear lot line.
- M. Flag lots. In order to allow the efficient use of otherwise landlocked areas, while maintaining rural character, keeping development costs down and limiting the creation of additional streets, the creation of flag lots may be approved in the RU District, provided that the Planning Board finds that the design and arrangement would not create difficulties for traffic safety and adequate access, and provided that the Planning Board finds that a standard lot and street design would not result in a better subdivision arrangement, subject to the following conditions:

Updated Zoning Law August 2015

- (1) A flag lot shall comply with and shall be utilized in conformance with all provisions of this chapter, except that the minimum street frontage requirement shall not apply to the street frontage of a flag lot approved by the Planning Board.
- (2) No more than one dwelling unit shall be permitted on a flag lot. Multifamily dwellings are prohibited on a flag lot.
- (3) A flag lot shall comply with and shall be utilized in conformance with the following additional dimensional regulations:
  - (a) The minimum street frontage shall be 20 feet.
  - (b) The minimum width of the "pole" portion along its entire length (from the street line to the "flag" portion) shall be 20 feet with a traveled way of no less than 14 feet in width.
  - (c) One of the internal lot lines shall be designated as the front lot line. The internal lot line opposite the designated front lot line shall constitute the rear lot line, and the other internal lot lines shall constitute side lot lines.
  - (d) The land area of the "pole" portion shall be excluded in determining lot area. In other words, the applicable minimum lot area requirement shall apply to the "flag" portion (the total area of the lot, exclusive of land in the "pole" portion).
  - (e) The applicable minimum front yard requirement for a principal building shall apply to the designated front lot line. The applicable minimum distance from street requirements for accessory buildings and structures shall also apply to the designated front lot line.
- (4) The Planning Board may require that the street frontage of a flag lot exceed 20 feet, that the width of the "pole" portion of a flag lot exceed 20 feet, and that the lot area of a flag lot (the total area exclusive of land in the "pole" portion) exceed the applicable minimum lot area requirement.
- (5) The Planning Board may designate one of the internal lot lines as the front lot line, incident to approving a flag lot. If the Planning Board does not so designate the front lot line, then the owner of the flag lot shall designate one of the internal lot lines as the front lot line, at the time of an application for a building permit.
- (6) Incident to approving a flag lot, the Planning Board may impose conditions relating thereto, including the following:
  - (a) A condition providing that the "pole" portion of a flag lot shall not be used for access to any other lot without obtaining approval from the Planning Board.
  - (b) A condition requiring a common driveway for adjoining flag lots and providing that access to such lots shall only be over the common driveway.
  - (c) A condition requiring that the "pole" portion of a flag lot be suitably improved and/or improved in accordance with particular specifications for access use.

Updated Zoning Law August 2015

- (d) A condition requiring that utilities to flag lots be buried. Such utilities shall not be installed beneath the traveled way of the driveway.
- (e) Other conditions deemed to be necessary or desirable in order to promote traffic safety and adequate access.
- (f) In general the "pole" portion should not exceed 750 feet. The Planning Board may waive this limitation if a longer "pole" does not negatively impact the land and provides adequate access, including adequate access for emergency vehicles. See also driveway requirements.

(7) The maximum number of adjoining or abutting flag lots shall be four.

N. Existing Rear lots.

- (1) When a rear lot exists as of the date of adoption of this local law, up to three additional rear lots may be created in the RU District. These lots shall not endanger public health and safety and will advance the purposes in § 232-1 of this chapter, including, in particular, the preservation of natural, historic and scenic resources and to provide a range of housing opportunities for all segments of the local population.
- (2) The following requirements apply to existing rear lots:
  - (a) A rear lot may have a deeded right-of-way easement over other lands, providing legally adequate and physically practical access to a public or private road. The minimum width for this right-of-way access is 50 feet along its entire length.
  - (b) Except for Subsection N (1) (a) above, rear lots must meet all other requirements for a lot in the applicable zoning district.
  - (c) No more than four driveways to rear lots may adjoin one another. Adjoining access ways must share one common developed driveway, and access easements must be provided over the shared driveway in favor of each lot being accessed by the same. If more than four lots are being accessed by a proposed private access way or drive, the private roadway requirements under the Town Subdivision Regulations must be satisfied.
  - (d) The driveway or right-of-way must provide safe access for fire, police and emergency vehicles.
  - (e) The rear lots must not result in damage to important natural resource and landscape features identified in the Master Plan and this chapter, including but not limited to wetlands, agricultural land, scenic views, steep slopes and ridgelines.
  - (f) When necessary to satisfy the criteria in Subsection N (3) (e) above, the Planning Board may require the applicant to grant a conservation easement that limits the area within which the house and driveway may be constructed on the rear lot.

- O. No commercial building in excess of 20,000 square feet is allowed in Zoning Districts BR, B-1 and B-2.

### **§ 232-9. Flood district regulations.**

- A. Flood district regulations shall be as specified for the zoning district in which located and in compliance with Chapter 135, Flood Damage Prevention.
- B. The Planning Board shall review subdivision proposals and other proposed new developments within the Flood Area Overzone to assure that all such proposals are consistent with the need to minimize flood damage, 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 adequate drainage is provided so as to reduce exposure to flood hazards. The regulations contained in Chapter 135, Flood Damage Prevention, shall also apply.

### **§ 232-10. Scenic Corridor Overlay Zone (SCOZ).**

- A. Purpose and intent. The purpose of the Scenic Corridor Overlay Zone is to establish clear guidelines for development, and/or redevelopment and protection of the Town's Route 22 corridor which comprises the most scenic and environmentally sensitive areas of the Town and to preserve existing open land now being actively used in agriculture.
- B. Applicability. Any of the following uses occurring on a parcel of land lying fully or partially within the SCOZ shall be subject to these supplementary regulations:
  - (1) All subdivisions that exceed the threshold for minor subdivisions as set forth in the Town's Subdivision Regulations.
  - (2) All land use development that requires site plan approval pursuant to § 232-18 of the Town Code.
  - (3) All commercial structures and uses requiring a special use permit and/or site plan approval pursuant to the Town Code.
  - (4) All uses requiring the issuance of a special use permit and/or zoning variance pursuant to the Town Code.
- C. Prohibited uses. The following uses currently permitted in the underlying zoning district either subject to site plan approval from the Planning Board and/or subject to a special use permit from the Zoning Board of Appeals are prohibited if they occur on parcels located entirely or partially within the SCOZ:
  - (1) Extractive operations and soil mining. New or expanding mine sites that require a mined land reclamation permit from New York State Department of Environmental Conservation (DEC) in accordance with Title 27 of Article 23 of the New York State Environmental Conservation Law and its regulations, as the same may be amended, are prohibited in the SCOZ. Extractive mining operations and soil mining that are below the New York State DEC permitting required thresholds will continue to be permitted subject to the issuance of a special use permit and site

## Updated Zoning Law August 2015

plan review and approval. However, in the event that DEC raises its thresholds for the requirement of a DEC permit, above the thresholds which are in existence at the time of the enactment of this section, all extractive mining operations and soil mining that exceed the DEC thresholds in effect at the time of the enactment of this section shall continue to be prohibited regardless of whether they require a permit from DEC.

- (2) Telecommunications towers.
- (3) Radio and televisions stations and towers.
- (4) Bus stations.
- (5) Mobile home parks.
- (6) Power plants.
- (7) Fuel storage and distribution facilities.
- (8) Commercial solar power generator facilities.
- (9) Commercial wind power facilities.
- (10) All uses that are currently prohibited in the underlying zoning district shall continue to be prohibited in the SCOZ.

**D. Exempt uses.** The following uses shall be exempt from the SCOZ design requirements:

- (1) Agricultural activities and farms, as that term is defined in the Town Code or as defined in § 301, Subdivision 11 of the Agriculture and Markets Law.
- (2) Construction of agricultural buildings or structures less than 7,000 square feet in area. Any agricultural buildings or structures 7,500 square feet or more shall be permitted subject to Section 232-18 (I) modified site plan review. No new agricultural buildings larger than 25,000 square feet will be permitted.
- (3) Construction of single-family homes.
- (4) All minor subdivisions as that term is described in the Town of Copake Subdivision Regulations.

**E. Conflicts.** In any case of a conflict between these supplementary regulations, and the requirements of the underlying zoning district, other sections of the Town Code, the Town road specifications and/or the Town's Land Subdivision Regulations, the provisions contained in these supplementary regulations shall control.

**F. Design requirements.** In approving applications for parcels within the SCOZ, the design standards and principles provided herein shall be applied by the Planning Board and/or Zoning Board of Appeals, as the case may be (the reviewing board). These design requirements are intended to ensure that

development and/or redevelopment within the SCOZ preserves, wherever practical, working farm fields; creates no more than a minimal impact on the SCOZ and surrounding area; is achieved in a manner which makes open space planning a central focus of development and/or redevelopment within the SCOZ; and ensures that projects fit into the scenic viewshed found along the Route 22 corridor to the fullest extent practicable.

- (1) Preservation of scenic features. In any application subject to these supplementary regulations, features that provide scenic importance to the Route 22 corridor should be preserved to a reasonable extent. These features include, but are not limited to, individual healthy trees within open fields that are at least 18 inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls.
- (2) Placement of structures. To ensure the placement of structures within the SCOZ on proposed building lots, building sites, including areas of cleared vegetation, shall be clearly designated on the applicable subdivision plat and/or site plans at the time of building permit application. Constructed structures should not differ more than 20 feet in any direction from building site locations shown on approved subdivision and/or site plans. Wherever practical, structures shall be sited to be as visually inconspicuous as possible when seen from a distance and from lower elevations, and to minimize impact on open and agricultural lands. Wherever possible, the reviewing board may require that structures be located at the edge of agricultural land to minimize the loss of such land.
- (3) Restrictions on height. No principal or accessory structure with a building height of greater than 35 feet shall be constructed within the SCOZ.
- (4) Mitigation of impacts. All principal and accessory structures subject to these regulations shall comply with the following measures, designed to mitigate the impact of the structure, and the clearing of vegetation and regrading involved in the construction of the structure:

  - (a) Visual impact. All structures shall be sited to avoid, to the greatest extent practical, occupying or obstructing public views of land within the SCOZ. A visual environmental assessment form may be required to be submitted with the application. Public views shall be considered to be from any location listed on the SEQRA Visual Environmental Assessment Form Addendum (V-EAF) pursuant to 6 NYCRR 617.20 Appendix B. Visibility shall be measured using a condition of no leaves on trees. When appropriate, the review board may require more extensive visual impact analysis as part of its application and/or SEQRA review of the project.
  - (b) Colors. Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them shall not be used as predominant colors on any wall or roof surface.
  - (c) Vegetation. Existing vegetation within the SCOZ shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures as seen from public roads or parks or other public views. This section is not

intended to limit forest management in the SCOZ when practiced in accordance with environmentally sound and sustainable silvicultural principles.

- (d)** Tree cutting shall be subject to the following:
- [1]** All timber harvesting in the SCOZ shall comply with the most recent versions of Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State DEC. There may be situations where strict adherence to certain provisions of the Timber Harvesting Guidelines for New York and Best Management Practices are impossible or impractical to attain. Alternate measures exist that can be substituted for such guidelines at the discretion of the board in appropriate circumstances. In such cases, the reviewing board may grant a waiver from the strict application of the guidelines where reasonable and necessary.
  - [2]** Clear-cutting of all trees in a single contiguous area in excess of 1/2 acre in area shall be prohibited; replanting of trees and/or shrubbery after construction may be required.
  - [3]** This subsection shall not apply to:
    - [a]** Christmas and landscaping tree culture or other existing tree plantation.
    - [b]** Harvests conducted in accordance with a timber harvesting plan prepared pursuant to § 480-a of the New York State Real Property Tax Law.
    - [c]** Tree clearing for farm purposes within Agricultural Districts established pursuant to the New York State Agriculture and Markets Law.
    - [d]** Severe natural disturbances, which include fire, insect infestation, disease, ice and wind.
    - [e]** Removal of timber stands that, if partially harvested according to accepted silvicultural practice, are at high risk for windthrow due to factors such as soils, rooting depth, crown ratio, or stem quality.
    - [f]** Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional, a New York State DEC Forester, a member of the New York Institute of Consulting Foresters, or a Cooperating Consultant Forester.
- (5)** View preservation. Where appropriate, preservation of views shall be by conservation easement, pursuant to § 247 of the New York State General Municipal Law, §§ 49-0301 through 49-0311 of the NYS Environmental Conservation Law, or other legal instruments, such as deed restrictions, acceptable to the Town Board, Planning Board and Town Attorney.

**(6) Lighting.**

**(a)** Exterior lighting in the SCOZ shall be controlled in both height and intensity and shall be in conformance with the requirements established herein. The light level at any lot line shall not exceed 0.2 footcandles, measured at ground level. Floodlights shall not be used to light any portion of a principal or accessory structure facade (except for temporary lighting. All outdoor light sources mounted on poles, buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. For purposes of this section, a "fully shielded light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries. The maximum allowable height of a freestanding light fixture shall be 16 feet above the average finished grade. Exceptions to the maximum height limitations up to 25 feet above the average finished grade may be made when it can be demonstrated to the Planning Board that glare to off-site locations will not occur with such higher fixture. The maximum allowable height of a building or structure mounted light fixture shall be 35 feet.

**(7) Solar Collectors.** Solar collector installations for residential and/or agricultural use are permitted within the SCOZ. Solar energy equipment/supply/service businesses are permitted under SCOZ design guidelines.

**(8) Design principles.** To meet the purposes of the SCOZ, the following design principles shall also be applied by the Planning Board:

**(a)** Within the SCOZ, flexible lot subdivisions as per § 232-15 of the Town Code shall be required as alternatives to maximum density development.

**(b)** Wherever practical, vegetation and topography shall be used to buffer and screen buildings.

**(c)** Clearing of existing vegetation at the edge of the road shall be minimized, except to open landscape views and as necessary to create road and driveway entrances with adequate sight distance. Curved driveways shall be used to increase the screening of buildings.

**(d)** Wherever practical, buildings shall be sited so that they do not protrude above treetops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees or hilltops.

**(e)** Wherever practical, all electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

**(f) Parking.** Parking lots for nonresidential and multifamily residential uses shall be provided with screened parking wholly at the side and/or rear of the structures, provided such an arrangement does not create a significant visual impact. If parking is provided at the side of

## Updated Zoning Law August 2015

structures, at least a ten-foot wide landscaped area (exclusive of that required for sidewalks or utility easements) shall be provided between the road right-of-way and the parking lot, to be planted with shade or ornamental trees and at least a three-foot-high evergreen hedge, wall or fence. In addition, at least one tree and three shrubs shall be provided for each eight parking spaces in interior areas of the parking lot, whether such lot is provided at the side or rear of structures. Parking for single-family dwellings shall also be provided at the side and/or rear of the principal structure, provided such an arrangement does not create a significant visual effect.

- (9) Dimensional regulations.** The following dimensional regulations shall apply to development within the SCOZ in addition to the dimensional regulations of the underlying zone district:
- (a)** The reviewing board shall require flexible lot subdivision in accordance with the Town Code and New York State Town Law when, in the Board's judgment, it would result in better preservation of open lands and/or the public viewshed.
  - (b)** Nonresidential and multifamily residential buildings shall be sited as per Flexible Lot Subdivision requirements 232-15.
  - (c)** No building shall exceed 7,500 square feet in footprint unless the structure is to be used exclusively for agricultural purposes on an active farm operation.
  - (d)** The maximum allowable impervious surface coverage on any parcel proposed for subdivision or development shall be 20%. This includes the footprint of all buildings and/or structures. To implement this requirement, restrictions on impervious surface coverage for individual subdivided lots shall be shown on any submission plan or plat.
  - (e)** Maximum building height requirements shall apply to the peak of the roofline. Cupolas, turrets and silos or barns when used in conjunction with agricultural operations, may exceed the maximum building height to the extent allowed elsewhere within the Zoning Code.
- (10) Prevention of soil erosion.** No site plan or subdivision plat shall be approved unless it includes stormwater runoff prevention and soil erosion and sediment control measures prepared in accordance with applicable statutes, rules, regulations and guidelines.
- (11) Referral.** The Town of Copake's SCOZ contains significant wildlife habitats, including those frequented by endangered and threatened species. To receive assistance in its review of applications, the reviewing board may refer the proposed plan to the New York State DEC, the New York Natural Heritage Program, or the Town of Copake Conservation Advisory Council for its review and recommendations. Such reviewing board may also refer the proposed plans for comment to any agency, commission, committee, board or officials of the Town, county, state or federal government as the board may deem appropriate.
- (12)** The review board may waive some or all of the regulatory and submission requirements of this section in the SCOZ under any of the following circumstances:

## Updated Zoning Law August 2015

- (a) The structure or area within the SCOZ is situated so that it does not create a significant visual impact when viewed from visually sensitive areas and from significant resources within the Town.
  - (b) The reviewing board finds that the proposed project is of a minor nature and is consistent with the design standards set forth herein.
- G.** Nonconforming uses. Any use or structure prohibited herein, or subject to the design requirements of this section, which lawfully exists, or for which a building permit has been approved and construction commenced, at the date of this section, shall be permitted to continue as a nonconforming use. However, the provisions of this section shall prohibit, or apply, as the case may be, to any expansion or extension of such use or structure (to the extent permitted by the Town Code or by issuance of a variance) or which requires the issuance of a building permit, special use permit, and/or certificate of occupancy from the Town of Copake, or a permit or amended or modified permit from the New York State Department of Environmental Conservation (DEC) or any other state agency. Any mining operation which lawfully exists at the time of the enactment of this section and which has been issued a mined land reclamation permit from the DEC may continue to operate as a nonconforming use even if renewed permits are required from the DEC, but only to the extent of the life of the mine area boundaries and limits of excavation as shown on the existing mining plans approved by DEC. Any expansion of such nonconforming mine beyond the mine boundaries, or at greater depths or excavation, than that shown on such approved and filed plans with DEC as of the date of this section shall be a prohibited use.

## Article V. Supplementary Regulations

### § 232-11. General provisions.

- 11.1 Fences and walls. Fences or walls within a front yard shall not exceed four feet in height. Fences or walls in a side or rear yard shall not exceed six feet in height. Where corner sight distances are required for traffic safety, these heights will be reduced as required by the Town Highway Superintendent and/or Town Building Inspector. These regulations shall apply to all fences or walls, with the exception of fences required under Chapter 156 of the Code of the Town of Copake pertaining to junkyards and motor vehicle storage areas. The Town Building Inspector may authorize a retaining wall in excess of the foregoing height limitation when it is determined that the same is necessary for the proper safety and preservation of persons or property.
- 11.2 Sewage systems. No person shall undertake to construct any new building or structure in the Town without first meeting the requirements for a system, or facilities, for the separate disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the Town and the Columbia County Department of Health. Wells shall be located at least 100 feet from the closest point of such sewage system.
- (1) Property cannot be sold or ownership transferred until the existing septic system is certified by a licensed engineer that it is in proper working order. The owner must provide a set of previously

## Updated Zoning Law August 2015

approved engineered or Department of Health certified plans, or other affidavit of compliance acceptable to the Code Enforcement Officer.

- (2) If an existing septic system is being replaced, it must be designed and approved by a licensed engineer or by the Columbia County Board of Health.
- (3) For the minor repair of a failed septic system, the contractor must provide a document to the Code Enforcement Officer detailing the repair.
- (4) A failed septic system includes, but is not limited to a split tank with a degrading seal, failed fields, failed soil at laterals such that the soil no longer absorbs effluent, corroded metal tanks, failed pumps and structure failure of the leaching cylinders.
- (5) If the renovation or alteration is to a structure on a community septic system, the applicant must provide documentation that the community system allows for increased use. If an additional bedroom, or room that could be used as a bedroom is added, the septic system must meet current Health Department standards or be designed by a licensed engineer. If an additional bedroom, or room that could be used as a bedroom is added to a community septic system, the applicant must provide documentation that the community system allows for increased use. If it cannot meet current health department standards, the septic system must be designed by a licensed engineer.
- (6) A septic system approval shall be required when one or more of the following occur:
  - a) Sale or transfer of the property
  - b) Increase in water usage
  - c) Addition of a bedroom or room that could be used as a bedroom. The Code Enforcement Officer should inspect the drawings and note on them if the addition conforms to the criteria needed for a bedroom, and if it does conform to that specification as required by the Building Code for a bedroom, then the Building Inspector shall require a septic system approval, even if it could be counted as a bedroom or not.
  - d) Total rebuilding of dwelling.
- (7) Should a residence be removed from the site or the existing septic system abandoned, future construction is considered new and all requirements for new construction must be met. Before the Code Enforcement Officer issues a Building Permit, the Columbia County Department of Health must review and accept the septic system design and capacity. If the septic system remains, a licensed engineer must certify the system.
- (8) The owner will provide the Code Enforcement Officer with a copy of the septic system design, certified by a licensed engineer. The copy shall be attached to the tax parcel.

11.3 Electric installation. Electric installations for new construction or additions with 10 or more outlets or any electrical upgrades indoors or outdoors, including pools, must be inspected and approved by one of the New York State certified agencies. Any electrical box constitutes an outlet. All new utilities shall be put underground whenever possible.

11.4 Buffering and/or screening.

- (1) Buffering shall be provided between business, industrial and residential districts in the form of a compact evergreen hedge or landscaped strip of trees and shrubs designed to form a visual screen six feet high or more.
- (2) Buffering for agriculture. Buffers are required between farms and major subdivisions and between farms and commercial properties, to be provided by the non-farm land use. Agricultural buffers between farms and minor subdivisions and single and two-family residences are not required provided the proposed non-farm states, in writing, that they acknowledge the potential odors, sounds and other potential nuisances associated with an adjacent agricultural operation, that they accept those nuisances, and that they choose to not provide an effective buffer against those agricultural operations and effects. This written statement shall be entered into the official file for that application with the Planning Board. Absent such a written statement, the Planning Board may require an agricultural buffer to be provided for by the non-farm applicant.
- (3) When a buffer is required, the following standards shall be met.
  - a) Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and shall be no less than fifty (50) feet in width. This buffer shall be within the prescribed setbacks, rather than in addition to the setbacks required for such district. If the setback is less than 50 feet, the buffer shall be to the extent of the setback.
  - b) Buffers may be required to be wider depending upon the type of agriculture or farm use adjacent to the non-farm use, the topography and the proposed design and planting of such buffer.
  - c) It shall be the responsibility of the non-farm applicant, including new agricultural-related businesses, subject to approval by the Planning Board, to provide an effective buffer that will reasonably protect adjacent non-farm areas from agricultural procedures.

11.5 Environmental Protection.

- (1) Stream Setbacks and Buffers. In order to protect Copake water resources, a vegetated buffer shall be established for all non-agricultural development as follows based on the slope of land perpendicular to the stream or creek:

Slope of Land	Required Width of Buffer for Non-Agricultural Uses
0-10%	50 feet
11-20%	51 to 70 feet
21 to 40%	71 to 110 feet
41 to 70%	111 to 150 feet

In no instances shall any structure be sited within 100 feet of a streambank.

Updated Zoning Law August 2015

- (2) Shorelines. Within the 100' setback, there shall be a minimum of 20 feet of vegetated riparian buffer for any land use, including agriculture. The buffer must remain in its untouched, vegetated state. No more than 20% of the lineal measurement of the shoreline on any given parcel of land may have vegetation removed for creation of a view corridors or water access. If the buffer soil has been disturbed, it must be replanted with non-invasive plants, shrubs, and trees in effective combinations to stabilize the soil and prevent erosion. The remaining 80' of the setback shall have no other non-agricultural development.
- (3) No septic tank or absorption field shall be located closer than 150 feet from a stream, creek, wetland or other body of water.
- (4) The spreading of manure or fertilizer for residential, commercial or agricultural purposes shall not take place within 100 feet of a watercourse or body of water.
- (5) Decks attached to a residence shall be exempt, provided that all other requirements can be met, and provided that such porch or deck shall never be enclosed.

11.6. Driveway requirements. Driveways require a building permit. For reasons of traffic and pedestrian safety, as well as to provide for possible future road widening or other improvements, all new driveways entering onto any street shall comply with the requirements of this subsection and shall be subject to the approval of the Town Highway Superintendent. Where such driveways are part of a subdivision application or site plan approval, they shall also be subject to Planning Board approval.

- (1) In the RU District, no driveway center line shall intersect a street line less than 75 feet from the intersection of any two street center lines.
- (2) The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a road shall not exceed 10% between the street and the front setback line, except where it can be demonstrated to the satisfaction of the reviewing board or official that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction of such a driveway is infeasible. In such a circumstance, a steeper grade may be approved, provided that the increase in driveway grade is the minimum increase necessary to provide access.
- (3) The maximum grade for new driveways accessory to uses other than single-family dwellings shall not exceed 7%, except that the reviewing board or official may permit increased grades as in Subsection 11.6 (1) above, provided that such grades shall not exceed 10%.
- (4) Notwithstanding the maximum permitted grades specified above, no driveway shall have a platform grade in excess of 3% within 30 feet of the edge of the pavement or travel way or within 25 feet of the property line of the road, whichever is greater. The Planning Board may require a greater distance in situations where, because of the nature of the proposed use, substantial traffic volumes and/or truck usage are anticipated.
- (5) No driveway opening shall be allowed where the sight distance in feet in both directions is less than 10 times the posted speed limit in miles per hour (e.g., 400 feet of sight distance in both directions is required where the speed limit is 40 miles per hour). In the event that road frontage of the property specified on an application is situated such that no driveway opening may be constructed

Updated Zoning Law August 2015

with the full minimum sight distance in both directions as required herein, the Highway Superintendent may require the driveway opening to be located to allow for maximum sight distance in both directions.

- (6) The angle of driveway openings with town highways shall be as close to 90° as is practicable.
- (7) The maximum number of driveway openings to a town highway shall be one per building lot having 150 feet of frontage or less. Where frontage exceeds 150 feet, the Highway Superintendent may allow more than one driveway opening.
- (8) The minimum width of a residential driveway opening shall be 20 feet.
- (9) The sizes and slopes of driveway storm drains and culverts within the Town highway right-of-way shall be specified by the Highway Superintendent. The owner shall bear all costs for pipe, grating, paving and other construction materials required within the Town right-of-way.
- (10) Driveway storm drains and culverts furnished by an applicant may be installed by the Town Highway Department, at its convenience, unless the permittee requests to install such drains and culverts or is directed to do so by the Highway Superintendent. All driveway and drainage construction and materials shall be subject to the approval of the Highway Superintendent and the Code Enforcement Officer.
- (11) Intense-use driveways.
  - (a) The maximum number of intense-use-driveway openings to a town highway shall be two per building lot having 250 feet of frontage or less. Where frontage exceeds 250 feet, the Highway Superintendent may allow more than two driveway entrances.
  - (b) Driveways and parking areas shall be designed so that no parking, loading or servicing of vehicles will take place within the Town's right-of-way and so that no vehicles will be required to back onto the Town road to gain ingress or egress to the abutting property.
  - (c) The maximum width of an intense use driveway shall be 40 feet, and the minimum driveway opening width shall be 20 feet.
  - (d) Island areas shall be required to define the location of driveways and to create a median strip between the Town highway surface and facilities on adjacent properties. The island areas shall have a minimum length of 20 feet and shall extend from the curb to the right-of-way line. Where no curb exists, the island areas shall extend from a line parallel to any minimum of 10 feet from the pavement edge to the right-of-way line or beyond.
  - (e) Island areas shall be defined by six-inch curb guardrails or other suitable materials and shall have grass or blacktop surfaces.
- (12) Common driveways.
  - (a) The maximum number of lots sharing a common driveway shall be four.

Updated Zoning Law August 2015

- (b) The minimum width of the right-of-way access for a common driveway shall be 30 feet.
- (c) The common driveway must provide safe access for fire, police and emergency vehicles. If a common driveway exceeds a distance of 500 feet from the edge of the connecting public right-of-way, a turnaround for emergency vehicles shall be required. The turnaround shall conform to applicable town specifications for turnarounds.
- (d) When more than one lot shares a common driveway the owner(s) shall cause to be recorded in the Columbia County Clerk's office a declaration of covenants, restrictions and easements in a form acceptable to the Town's Attorney, which shall at a minimum provide for:
  - [1] Reciprocal easements for use of said driveway of each owner of a lot in said subdivision.
  - [2] A declaration that the Town has no responsibility for the maintenance of said driveway.
  - [3] Maintenance of the driveway to be paid for by the owners of the lots. Maintenance shall include normal upkeep, reconstruction, drainage, snowplowing and any and all other costs which may be associated with such driveway.
- (e) No certificate of occupancy can be issued until the driveway is installed in accordance with the above specifications and is approved by the Town Highway Superintendent and Code Enforcement Officer.

11.7 Outside Lighting. Outside lights in any district, whether on a pole, building, structure, or sign, shall be so directed or shaded as not to cause glare on nearby residential property nor cause a traffic hazard due to glare or color. Outside lighting shall also be compliant with dark sky fixtures and bulbs as recommended by the International Dark Sky Association to the maximum extent feasible. See also lighting requirements for SCOZ as per 232-10 F (6).

11.8. Right-of-ways. All newly approved rights-of-way shall meet the following criteria:

- (1) A right-of-way shall be designated as a 30' wide right-of-way in the plan and shall be certified by a New York State licensed surveyor.
- (2) The minimum frontage and setback requirements of all lots abutting the right-of-way must meet the standards for rear lots in this chapter of the Town Code.
- (3) Any cul-de-sac within the right-of-way shall meet all requirements of Chapter 149 (Highway Specifications).
- (4) The location and topography, including soil and drainage conditions, of a right-of-way must contain characteristics that will enable a future street or road to be improved or built under those standards required for a major subdivision as defined in the Land Subdivision Regulations of the Town of Copake.

11.9. Sheds. Enclosed sheds that conform to the following standards are permitted with a building permit.

Updated Zoning Law August 2015

- (1) The shed shall be allowed up to 120 square feet in size, e.g., eight feet by 10 feet, 10 feet by 12 feet, or the equivalent. The height limit shall be 10 feet.
- (2) No permanent foundation or concrete slab may be installed, and they shall not include storage containers.
- (3) The shed may not be closer than 10 feet to any property line and shall not be located in the front yard.
- (4) No future conversion to a garage or living space or use other than storage shall be permitted.
- (5) The specific shed model or plans must be approved.
- (6) The predominant colors on any wall or roof surface shall not be of reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them.
- (7) Storage shall be limited to personal property of the owner or occupant of the premises.
- (8) Addition of the shed shall be deemed to have no significant negative impact, aesthetic or other, on neighbors or the neighborhood. A plot plan showing shed location, setbacks, and existing structures must accompany the application for a building.

11.10 Trails and Sidewalks. The Planning Board shall promote multi-use trails, sidewalks, and pedestrian linkages where feasible and appropriate. Sidewalks in the hamlet of Copake shall be required, and the Planning Board may require paths, trails or sidewalks in other locations and as per major subdivision requirements.

11.11 Demolition – See Town of Copake Building Code for requirements for demolition and demolition permits.

- (1) Unsafe sites should be made safe within 24 hours.
- (2) After demolition occurs, owners shall grade, seed or fence the area within 15 days.
- (3) Removal of debris must be to an authorized landfill or authorized transfer station.

11.12 Utilities.

The purpose and use of electric, gas or other utility substations, transformer stations or sewage pumping station and other similar structures shall be as follows:

- A. Such use is reasonably necessary for the service, convenience or welfare of the public.
- B. Such use will not alter or be detrimental to the character of the neighborhood.
- C. Such use has adequate fences and other safety devices and adequate screening or landscaping.

### **§ 232-12. Prohibited acts.**

The following are prohibited in all districts:

- A. All requirements of the Town of Copake Noise requirements (Chapter 160) shall be followed.
- B. Excessive smoke, fumes, gas, odor, dust or any other atmospheric pollutant beyond the boundaries of the lot whereon a use is located. Smoke is excessive when the shade or appearance of such smoke is darker than No. 2 on the Ringelmann Smoke Chart, published by the United States Bureau of Mines.
- C. Any pollution by discharge of any waste material whatsoever into any watercourse, open ditch or land surface.
- D. Discharge of any waste material whatsoever into any sanitary disposal system or sewerage system, except in accordance with the rules the Public Health Authorities or the public body controlling such sanitary or sewage disposal system.
- E. Junk Yards.
- F. Commercial Wind Power are not allowed in any base or overlay zoning district.
- G. Commercial Solar Facilities are not allowed in any base or overlay zoning district.

### **§ 232-13. Off-street parking and loading.**

In all districts, off-street parking spaces and truck loading spaces for permitted uses shall be required at the time any of the main buildings or structures of such uses are constructed or altered as follows:

- A. The minimum cumulative number of required parking spaces shall be determined from the following list:
  - (1) Single Family Dwelling – 2 per dwelling unit
  - Multi-family – 1.5 per dwelling unit plus 0.25 for each additional bedroom.
  - Nursing Home, Assisted Living - .5 per dwelling unit.
  - General and convenience retail – 2.75 per 1,000 sf gross floor area
  - Grocery Store – 6.75 per 1,000 sf gross floor area
  - Restaurant, Bar – 15 per 1,000 sf gross floor area
  - Offices – 3.8 per 1,000 sf gross floor area
  - Schools, day care center - .30 per student
  - Theater or other places of public assembly - .25 per person where seated, and .3 per seat where seated.
  - (2) One space for each 2,000 square feet of inside storage area.
  - (3) One space for each 3,000 square feet of outside storage area.
  - (4) Five spaces for each road stand for the sale of produce grown principally on the same lot.

- (5) One space for each employee for any business or commercial use.
- B.** Each space provided shall be at least nine feet wide and 20 feet long with direct and usable driveway access to a street with minimum maneuver area as follows:
- (1) Parallel curb parking: twelve-foot aisle width per direction of traffic flow.
  - (2) Thirty-degree parking: thirteen-foot aisle width per direction of traffic flow.
  - (3) Forty-five-degree parking: sixteen-foot aisle width per direction of traffic flow.
  - (4) Sixty-degree parking: twenty-one-foot aisle, one direction; twenty-six-foot aisle, two directions.
  - (5) Right angle parking: Twenty-six-foot aisle width.
- C.** Location of required parking spaces.
- (1) In any residential district, parking spaces may be located within ten feet of a side or rear property line.
  - (2) In business or industrial districts, such spaces shall be provided on the same lot or not more than 400 feet therefrom.
  - (3) No entrance or exit drive for a parking area for more than five cars shall be located within 25 feet of any intersection.
- D.** Construction. Required parking areas for more than five cars may be paved or constructed with pervious surfaces, suitably drained and, if used at night, lighted.
- E.** Landscaping. At least 8% of the area usable for off-street parking shall be devoted to landscaping. Areas adjacent to residential areas shall be screened. All parking areas shall be properly maintained in a sightly and well-kept condition.
- F.** Off-street loading areas are required for funeral homes, hotels, motels, lodges, resorts and business and commercial enterprises. One space shall be provided for each 25,000 square feet or fraction of floor area. Such areas shall not be located on the front or street side of a building.
- G.** Dimensions of off-street loading berths. Each berth shall be 35 feet long by 12 feet wide and 14 feet high, except funeral homes, which may be 20 feet by 10 feet by eight feet.

### **§ 232-14. Sign regulations.**

- A.** No sign or other device for advertising purposes of any kind may be erected or established in the Town, except as herein provided.
- B.** Freestanding signs shall be permitted only when the building is 20 feet or more from the front property line.

Updated Zoning Law August 2015

- C. Signs attached to buildings shall be limited to 10% of the area of the face or side to which it is attached, excluding windows and doors, and not to exceed the sizes shown in Subsection S D. One attached and one freestanding sign may be permitted.
- D. The height of freestanding signs shall be no more than indicated in sub-section (S) below.
- E. Attached signs, suspended at right angles to the building, shall not exceed six square feet in area, shall not project more than 36 inches and shall not overhang the property line. No sign shall impede sight distances for vehicles.
- F. A second freestanding sign may be permitted on corner lots, where a business is located more than 30 feet from the front property line or where the property is more than 200 feet long.
- G. An existing sign that is to be reused for a different business or any other change shall be considered new and require approval.
- H. Identification signs may be interior lighted with non-glaring lights or externally illuminated with fully shielded lights. Intermittent, flashing, neon or colored lights shall not be permitted. Revolving signs are not allowed.
- I. Roof signs, representational signs and signs painted on a building are not allowed. Signs on mansard roofs are not permitted.
  - (1) A mansard roof style (4 planes) or any other geometric roof style are roofs, and no signs are permitted on any roof plane.
- J. Temporary advertising signs representing construction or contractor signs are permitted with a maximum size of two (2) square feet. Permission for such signs shall be automatic upon issuance of the work permit for the project.
- K. Window signs shall not occupy more than 25% of each window or the permitted size, whichever is the lessor of the two.
- L. Traffic signs, municipal signs and emergency signs are permitted as authorized by the Town Board.
- M. Banners, pennants, ribbons, streamers, spinners or revolving devices shall not be used as part of a sign or to attract attention for commercial purposes.
- N. Posters of any kind shall not be displayed until 30 days before an event and must be removed within five days after such event. No poster shall be attached to a tree or utility pole.
- O. All signs must be kept clean, neatly painted and free of hazards.
- P. All freestanding signs and any other sign that does not conform to the size limitations of Subsection S shall be referred to the Planning Board for approval. All signs that are part of a project that requires site plan or special use permit approvals shall be reviewed concurrently by the reviewing board at the time of project review.

Updated Zoning Law August 2015

Q. Business signs shall be permitted only on the property on which the business is located, except for one additional directional sign allowed on another property.

R. The size of signs shall be limited as follows:

<b>Type of Sign</b>	<b>Sign Permit Required</b>	<b>First Sign Area (square feet)</b>	<b>Second Sign Area (square feet), if permitted</b>	<b>Height of Sign (feet)</b>
In residential districts, permitted nonresidential signs, including place of worship, library, social club, etc.	Yes	16	12	10
Business signs, any district	Yes	24	16	12, but may be required to be lower based on site conditions
Professional or personal name signs for Home Occupation	No	2	No	6
Second sign on building when a freestanding sign is permitted	Yes	--	24	
Signs on community poles, per business or establishment	Yes	6	6	8
Real estate signs (sale, rent)	No	6	No	
Sign on pole, maximum height 18 feet	Yes	24	No	
Posting notice to public (hunting, fishing, etc.)	No	1 1/2	1 1/2	

S. Any violations of the sign regulations shall be treated the same as any other zoning regulations. See § 232-20.

T. For any sign that is found to be unsafe or insecure or be a menace to the public, the same procedure shall be followed, except that if the Building Inspector shall find that there is immediate danger, the sign may be summarily removed and without notice.

U. LED and Full Screen Signage.

- (1) LED identification signs color temperature limited to color range of 2700 - 3000K, warm white maximum.
- (2) LUX light 145 - 730 range, with warm white LED back-lit 'halo' & face lit LED permitted.
- (3) Bright white & daylight 3001 to 6500 K; cool white, yellow, orange 'high 'LUX'; 1200 - 3600 'LUX' not permitted.
- (4) Full panel LED signs controlled manually, or by computer, with a message panel, of face letters, & logos, are subject to the same limitations noted in a, b, c, above.
- (5) Flashing or intermittent systems of any kind; entry / exit / transition / appear /disappear; animation systems of text or graphics, are not permitted.
- (6) Signs shall revert to 'black screen' in the event of a failure of any kind.

**§ 232-15. Flexible lot subdivisions.**

A. Purpose and applicability.

- (1) Flexible lot subdivisions allow design flexibility while preserving important natural attributes of the land. The purpose of flexible lot subdivision development is to ensure that environmental resources are protected and that development occurs on the land that is best suited for development.
- (2) For major subdivisions in the RU Zone, the Planning Board shall require flexible lot subdivisions as outlined herein. Flexible lot subdivision requirements may be applied to minor subdivisions if desired by the applicant.

B. Calculation of unconstrained acreage and base density. The maximum density allowed for residential units is calculated by a formula based upon the unconstrained acreage. Flexible lot subdivision developments may occur on any parcel of land containing six acres or more in the RU District.

- (1) To determine the unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the constrained acreage.
- (2) Constrained acreage includes wetlands (NYS Department of Environmental Conservation and US Army Corps of Engineers), watercourses/water bodies with a one-hundred-foot buffer, one-hundred-year floodplains, and slopes over 15% which are 2,000 square feet or more of contiguous sloped area. Slope determinations shall be based upon ten-foot contour intervals, unless an applicant elects to submit slope information with smaller contour intervals or another section of the Zoning Law or Subdivision Law requires the use of smaller contour intervals.
- (3) To determine the base number of allowable residential units on the site, divide the unconstrained acreage by the allowable number of acres per unit required within the zoning district. Round down fractional units of 0.5 or less and round up fractional units greater than 0.5. The resulting number is the base density allowed on the site.
- (4) The base density in Subsection B(3) may be increased by up to 20% at the sole discretion of the Planning Board if permanent public access will be granted to the protected open space land and

Updated Zoning Law August 2015

any associated improvements as delineated in § 232-15.1, Permanent open space in flexible lot subdivisions.

- (5) The base density permitted by this section shall not be reduced as a result of the conservation analysis required in Subsection C, Conservation analysis below.

**C.** Conservation analysis.

- (1) As part of any sketch plan submission for flexible lot subdivision development for major subdivisions, an applicant shall prepare a conservation analysis, consisting of inventory maps, survey and topographic maps, description of the land, and an analysis of the conservation value of various site features.
- (2) The conservation analysis shall identify site features with conservation value on the parcel, including but not limited to the following:
  - (a) Constrained acreage as determined in Subsection B (2) above.
  - (b) Farmland.
  - (c) Existing or proposed public trail corridors.
  - (d) Scenic viewsheds.
  - (e) Unique geological features.
  - (f) Areas of high or very high hydrogeologic sensitivity.
  - (g) Sites identified as historic on any federal, state, or local register of historic places.
  - (h) Public parks and publicly accessible recreation lands.
  - (i) Unfragmented forest land.
  - (j) Buffer areas necessary for screening new development from adjoining parcels and from other publicly accessible areas, including roads, parkland, and nature preserves.
  - (k) Stone walls.
  - (l) Trees 15 inches in diameter at breast height (dbh) or larger, except where such trees are part of a larger stand of trees, in which case the entire stand may be identified as a unit.
  - (m) If requested by the Planning Board after the initial submission of the conservation analysis, other land exhibiting present or potential future recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.

- (3) The conservation analysis shall also identify areas that are potentially suitable for development, especially those that have been previously disturbed (e.g. by mining, prior development, or clear cutting) and their present condition. Such areas, depending on their condition and location, might be preferred locations for development.
  - (4) The Planning Board shall make a final determination as to which land has the most conservation value and should be protected from development by conservation easement. 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). 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 conservation analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
  - (5) The outcome of the conservation analysis and the Planning Board's conservation findings shall be incorporated into the Planning Board's acceptance of the sketch plan review, pursuant to the Town's Subdivision Regulations.
  - (6) The sketch plan shall show the following:
    - (a) Preferred locations for intensive development as well as acceptable locations for less dense development.
    - (b) Land to be permanently preserved by a conservation easement, as well as recommended conservation uses, ownership, and management guidelines for such land.
    - (c) Land suitable for stormwater management facilities, which may be located within the preserved land area.
  - (7) At least 60% of the total acreage shall be preserved by conservation easement and shown as such on the sketch plan, based upon the conservation findings.
  - (8) An approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection by conservation easement of portions of the site identified in the conservation analysis and findings as having conservation value.
- D.** Lot sizes in flexible lot subdivisions. There shall be no minimum lot size in a flexible lot subdivision except as may be necessary to satisfy the requirements of the County Health Department. The Planning Board shall determine appropriate lot sizes in the course of its review of a flexible lot subdivision based upon the criteria established in this section. In order to permit a clustered lot configuration, wells and septic systems may be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities. If individual disposal systems and wells are planned, the density of households across the entire parcel or parent tract shall not exceed those indicated on the density schedule.

**E.** Other area and dimensional requirements.

- (1) There shall be no required area or dimensional standards in a flexible lot subdivision, except that where such subdivision abuts an existing residence, a suitable buffer area may be required by the Planning Board in its sole discretion. However, all lots shall be of sufficient size to accommodate water and septic systems and to meet all Department of Health requirements.
- (2) The applicant shall specify dimensional requirements for a proposed flexible lot subdivision by identifying setbacks and other lot dimensions to be incorporated into the final plat. The Planning Board may vary dimensional requirements to accommodate a flexible lot subdivision.
- (3) The project shall be designed to maintain or replicate the predevelopment hydrologic functions of storage, infiltration, and groundwater recharge. This can be done by using stormwater retention and detention areas, reducing impervious surfaces, lengthening flow paths and run off time, and preserving environmentally sensitive site features.

**F.** Flexible lot subdivision of a portion of larger tract. The Planning Board may entertain an application to develop a portion of a parcel if a conservation analysis is provided for the entire parcel and the approval to develop a portion of the parcel is not a basis for the applicant or successor in interest to subsequently request an exception under Subsection C(8) for the remainder of the parcel.

**G.** Flexible lot subdivision design guidelines. Lots shall be arranged in a manner that protects land of conservation value and facilitates pedestrian circulation. The lot layout shall, to the extent feasible, comply with the design guidelines in § 232-16, Rural design siting standards. Permitted building locations or areas (building envelopes) shall be shown on the final plat.

**H.** Professional assistance. The Town finds that the volunteer members may need professional assistance to make informed decisions. The Planning Board may engage the services of professional consultants during subdivision review, at the expense of the applicant. The cost is above any other fees or costs associated with SEQRA review.

**I.** Design Process. The proposed open spaces areas shall be designated as follows:

- (1) Step 1. Delineate Primary and Secondary Open Space Areas as follows:
  - (a) Primary Conservation Areas shall be delineated and designated on a map. House lots shall not encroach upon Primary Conservation areas.
  - (b) Secondary Conservation Areas shall be delineated and designated on a map. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the parcel in terms of their highest to least suitability for inclusion in the proposed open space in consultation with the Planning Board. Secondary Conservation Areas shall be delineated on the basis of those priorities and practical considerations given to the parcel's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives. These features shall be clearly noted, as well as the types of resources included within them, on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the parcel.

- (c) The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area.
- (2) Step 2. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
- (3) Step 3. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified in this Zoning Law and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, traversing steep slopes, and fragmenting agricultural lands. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All applicable requirements of the Town of Copake Highway Law shall be met.
- (4) Step 4. Draw Lot Lines. Upon completion of the preceding steps, lot lines are then drawn as required to delineate the boundaries of individual residential lots.

### **§ 232-15.1. Permanent open space in flexible lot subdivisions.**

Open space set aside in a flexible lot subdivision shall be permanently preserved as required by this section. Developed lands shall not impact the conservation value of the permanent open space.

- A.** Conservation value of open space. The open space protected pursuant to this section must have conservation value as determined by the conservation findings pursuant to § 232-15 (C) (4).
- B.** Open Space Standards.
- (1) The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The lot layout shall show how those sensitive areas will be protected by the proposed subdivision plan. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practicable such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.
- (2) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to, preserving wetlands, vernal pools, and their associated upland habitats.
- (3) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for

## Updated Zoning Law August 2015

public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the parcel.

- (4) Open space land shall, to the maximum extent practicable, be contiguous to avoid fragmentation and to create a critical mass of land either available for agriculture or left in a natural state.
- (5) Open space lands shall be designated as one or more individual conservation lots owned in common, or designated and included as part of one or more house lots. A portion of any house lot five (5) acres or more in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the Town that states the future use shall be restricted to open space such as undisturbed wildlife habitat, managed agricultural field, or managed forest, and that prevents development of, or use as, a mowed lawn on that portion of the parcel, and that is contiguous to other lands to form unfragmented open spaces. Any house lot less than five (5) acres does not qualify as contributing to open space.
- (6) Walkways, trails, play areas, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection may be included in the preserved open space lands.
- (7) The required open space may be used for community septic systems.
- (8) Stormwater management ponds or basins and lands within the rights-of-way for underground utilities may be included as part of the minimum required open space.
- (9) Recreation lands such as ball fields, golf courses, and parks shall not be considered part of the required open space unless such land is open to the public. Such recreational lands with access only to residents shall not be counted towards the open space requirements, but shall be counted towards any recreation land requirement as per the Town of Copake Subdivision Regulations.

### C. Permanent preservation by conservation easement.

- (1) 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 § 247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, and/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 Planning Board shall require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's Office prior to or simultaneously with the filing of the final plat in the County Clerk's Office.
- (2) The conservation easement shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation) and shall not be amendable to permit such use. Access roads, driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures shall be permitted on preserved open space land with Planning Board approval, provided that they do not impair the

Updated Zoning Law August 2015

conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.

- (3) Permanent open space may be preserved under a conservation easement as a portion of one or more large lots or may be contained in a separate open space lot. The conservation easement may allow dwellings to be constructed on portions of lots that include preserved open space land, provided that the total number of dwellings permitted by the conservation easement in the entire subdivision is consistent with applicable density limitations of this section.
- D. Notations on final plat. Preserved open space land shall be clearly delineated and labeled on the subdivision final plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The final plat shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement required by this section, and shall include deed recording information in the County Clerk's office for the conservation easement.
- E. Ownership of open space land.

  - (1) Open space land shall under all circumstances be protected by a perpetual conservation easement, but may be owned in common by a homeowners' association (HOA), offered for dedication to Town, county, or state governments, transferred to a nonprofit 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.
  - (2) 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 HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
    - (d) The HOA must be able to adjust the assessment to meet changed needs.
    - (e) The applicant shall make an irrevocable, conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may only be accepted upon any one of the following circumstances:

      - [1] Upon the failure of the HOA to take title to the open space from the applicant or other current owner; or

[2] Upon dissolution of the association at any future time; or

[3] Upon failure of the HOA to fulfill its maintenance obligations hereunder; or

[4] Upon failure to pay its real property taxes.

(f) 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.

(g) The Town's Counsel shall find that the HOA documents presented satisfy the conditions in Subsection E(2)(a) through (f) above, and such other conditions as the Planning Board shall deem necessary.

F. Maintenance standards.

(1) Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for any purpose or structure prohibited by the conservation easement or for the storage or dumping of any matter, including, but not limited to, fill, refuse, junk, or other offensive or hazardous materials.

(2) If the Town Board finds that the provisions of Subsection F (1) above are being violated, it may, upon 30 days' written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property or properties.

**§ 232-15.2. Flexible lot subdivision procedures.**

A. Review process. The flexible lot subdivision process involves the following three steps:

(1) Initial sketch plan.

(2) Preliminary plat review.

(3) Final plat review.

B. Initial sketch plan. An applicant shall submit a sketch plan pursuant to Ch. 197 of the Town Code.

(1) The sketch shall incorporate the outcome of the conservation analysis and the Planning Board's conservation findings.

(2) The sketch plan, as tentatively approved, shall show the following:

(a) A density calculation, as described in § 232-15 B.

- (b) Preferred locations for intensive development as well as acceptable locations for less dense development.
- (c) Land to be permanently preserved by a conservation easement, as well as recommended conservation uses, ownership, and management guidelines for such land.
- (d) Land suitable for stormwater management facilities, which may be located within the preserved land area.
- (e) All other requirements pursuant to Ch. 197 of the Town Code.

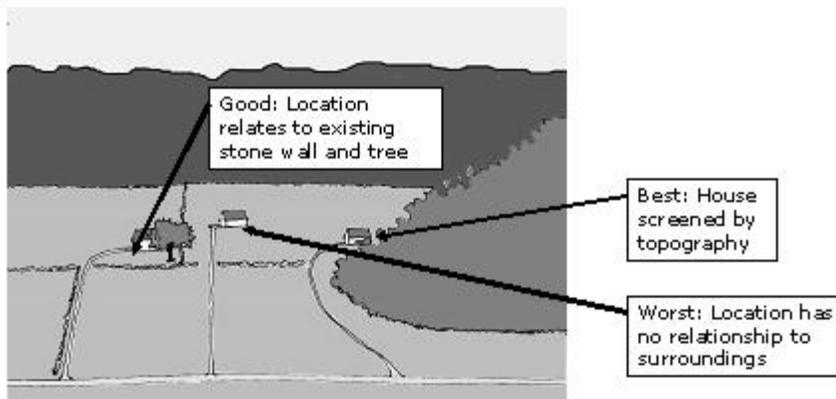
C. Preliminary and final plat review.

- (1) Review of a preliminary plat is mandatory for flexible lot subdivisions containing four or more lots.
- (2) The applicant must follow all processes and requirements pertaining to preliminary and final plat for major subdivisions pursuant to Ch. 197, Subdivision of Land.

**§ 232-16. Rural design and siting standards.**

The following guidelines should be considered and may be required in the process of designing and siting houses in the RU District. When locating new houses on the land there are many options in the siting, configuration, size and arrangement of elements in the landscape. These choices define the character of the developed landscape environment. These guidelines are examples of the preferred way to design and site uses but they should not be considered the only acceptable solution.

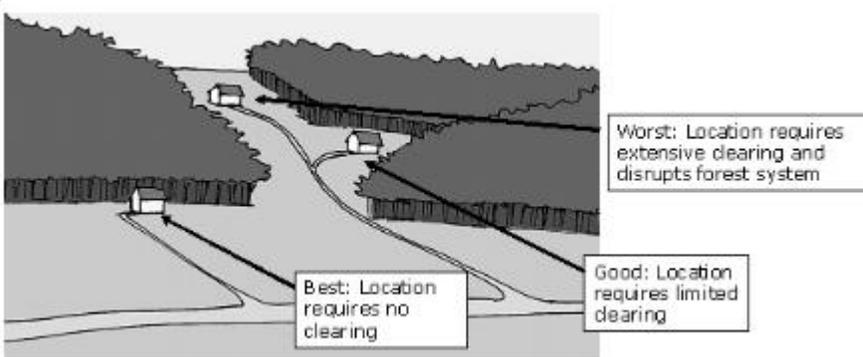
- A. Preservation of scenic features. Relate the location of structures to existing scenic features such as individual large trees within open fields, stone walls, hedgerows, historic buildings, and unpaved country roads if they exist on the site. Avoid locating structures in areas which disrupt the relationship of the rural features. Locating structures in the midst of an open field, for example, is discouraged.



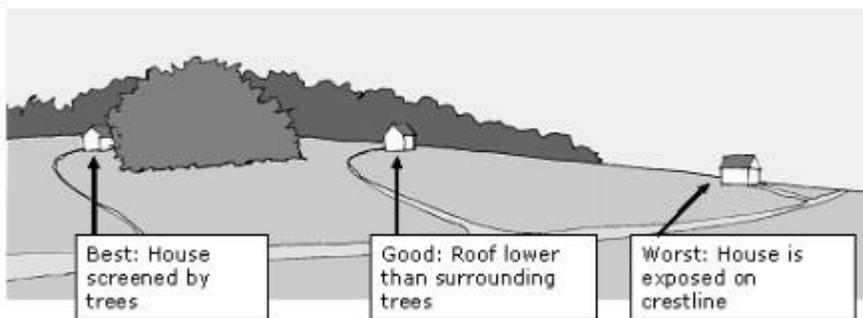
- B. Placement of structures. Wherever practical, structures shall be sited to be as visually inconspicuous as possible, when seen from a distance and from lower elevations, and to minimize impact on open

and agricultural lands. Wherever possible, the reviewing Board may require that structures be located at the edge of the agricultural land to minimize the loss of such land, and/or on soils of poor agricultural quality.

- C. Vegetation. Existing vegetation on-site shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures as seen from public roads or parks or other public views.



- D. Building placement. Wherever practical, buildings shall be sited so that they do not protrude above treetops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that a building should not be seen, only that the highest point of the building shall not extend above the summit of the hill.



- E. Utilities. Wherever practical, all electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

- (1) On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use.
- (2) Away from the boundaries of any farm preserved with a conservation easement or other permanent protection, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm.

Updated Zoning Law August 2015

- (3) So that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses.
- (4) To cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table by avoiding placement of impervious surfaces where water is most likely to infiltrate and recharge the groundwater.
- (5) To avoid disturbance to streams and drainage swales, floodplains, vernal pools, wetlands, and their buffers. Native vegetation shall be maintained to create a buffer of at least 100' and no other disturbance shall take place within 100' of wetlands and surface waters, including creeks, streams, vernal pools, springs and ponds.
- (6) All grading and earthmoving on slopes greater than fifteen percent (15%) shall be minimized and shall only be to create a house site, driveway and area for a septic system. Such grading shall not result in cut and fills whose highest vertical dimension exceeds eight (8) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill.
- (7) To avoid disturbing existing cultural and scenic features. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, a deep non-vegetated buffer is recommended along the road where those views or vistas are prominent or locally significant.
- (8) To be as visually inconspicuous as practicable when seen from state, county and local roads, and in particular, from designated scenic routes. The subdivision shall preserve woodlands along roadways, property lines, and lines occurring within a site such as along streams, swales, stone fences, and hedgerows to create buffers with adjacent properties. Preservation shall include ground, shrub, understory and canopy vegetation.
- (9) To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads. House lots shall generally be accessed from interior streets, rather than from roads bordering the parcel. New intersections with existing public roads shall be minimized. Although two (2) access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two (2) entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- (10) On suitable soils for subsurface sewage disposal (where applicable).
- (11) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to enable new residential development to be visually absorbed by the natural landscape.
- (12) Around and so as to preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.

- (13) To protect biodiversity and wildlife habitat areas of species listed as endangered, threatened, or of special concern by either the United States Department of the Interior or the New York State Department of Environmental Conservation.

## **§ 232-17. Regulations for Specific Uses**

### **17.1 Home Occupations.**

- (1) Minor home occupations do not need review and approval by the Planning Board but shall be registered with the Code Enforcement Officer.
- (2) Major home occupations shall receive Site Plan approval by the Planning Board prior to initiation of business activities. To be approved, major home occupations must comply with all of the applicable following criteria:
  - (a) The home occupation must be incidental to the use of the dwelling unit for residential purposes.
  - (b) The residential property where a home occupation is to occur must be owner-occupied.
  - (c) No more than thirty percent (30%) of the total floor area (heated, habitable space) of the dwelling unit and all accessory structures on the parcel may be used for home occupation purposes.
  - (d) No offensive noise, vibration, dust or odor, heat or glare shall be produced by the home occupation activity.
  - (e) One unanimated, non-illuminated sign of not more than two (2) square feet shall be allowed for major home occupations. There shall be no other exterior evidence of the home occupation.
  - (f) Business operation hours, lighting and signage, should be set so as not to adversely affect adjacent properties.
  - (g) Adequate parking must be demonstrated. At a minimum, there shall be two (2) spaces for the residential use, plus one space for each five hundred (500) square feet of floor space of the home occupation located to the rear of the residence.

### **17.2 Excavation.**

- (1) Excavations shall be permitted only for development for which a building permit has been obtained or for quarrying or soil mining when a mining permit from the New York State Department of Environmental Conservation and/or a special use permit from the Zoning Board of Appeals have been obtained. Such excavation shall not affect natural drainage. All excavations shall meet all NYS DEC stormwater requirements.
- (2) Property owners may move, for filling or leveling, topsoil, sand, stone and gravel on the owners' property, provided said activities:
  - (a) Are limited and localized in impact, affecting no more than two acres of the property at one time.

- (b) Do not breach the water table.
- (c) Are reasonably necessary for, and incidental to, carrying out the improvements and/or agricultural uses permitted on the property.
- (d) No excavation within 100' of any waterway.

### **17.3 Golf driving range.**

A golf driving range shall be so laid out that there will be no danger to surrounding properties or to traffic on any street and shall be suitably fenced to assure protection.

### **17.4 Automobile repair (including body shops).**

All materials, damaged vehicles or vehicles to be repaired or serviced shall be screened from adjacent properties and streets. All major automobile repair work shall be within an enclosed building. All major repair work and all storage of equipment and parts shall be within an enclosed building which has a maximum height of 25 feet. Such repair work shall not include any body repair work or spray painting or car washing which require mechanical equipment in a B-1 District, except by special permit of the Zoning Board of Appeals as provided by this chapter.

### **17.5 Veterinarian offices and animal hospitals.**

All animal housing and related structures shall be located 200 feet or more from any lot line.

### **17.6 Agricultural uses, public stables, Agricultural Soils.**

- (1) No slaughterhouse facility shall be allowed unless pursuant to Section 232-17.7 (Slaughterhouse).
- (2) Agricultural uses and public stables that exist expressly for the disposal of offal, and agricultural uses that exist expressly for garbage disposal shall not be permitted unless pursuant to Section 232-17 (Slaughterhouse) and unless said use is a garbage disposal area operated by the Town of Copake or a group of towns including the Town of Copake or Columbia County.
- (3) The processing and storage of agricultural products, including packing, warehousing and storing, is permitted, except that slaughterhouses shall be subject to all provisions of Section 232-17.7 (Slaughterhouse) and no other rendering, fertilizer plants and canneries shall be allowed.
- (4) The unenclosed storage of manure or areas for storage of dead fowl or other odor- or dust-producing substance or use shall not be permitted within 200 feet of a property line or right-of-way, except that the storage of manure shall be excepted from this restriction in any certified New York State Agricultural Districts so long as such manure storage is not within 100 feet of a watercourse or body of water. The spreading of manure or fertilizer shall not take place within 100 feet of a watercourse or body of water.
- (5) All agricultural buildings if converted from agriculture to any other permitted use shall require review pursuant to the Schedule of Use table of this zoning law and shall comply with all

Updated Zoning Law August 2015

building code requirements. . No new agricultural buildings larger than 25,000 square feet shall be permitted.

- (6) Buildings for the housing of fowl or farm animals, including horse stables outside of the New York State Agricultural District shall not be located in the required front yard or within 200 feet of a property line or public street right-of-way.
- (7) A public stable may not be established on a lot smaller than seven acres.
- (8) Agricultural Data Statement.
  - (a) Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by the Planning Board, Zoning Board of Appeals or Town Board that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The reviewing board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement shall be included as part of all applications required by this local law.
  - (b) Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, or town board, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
  - (c) Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.
- (9) When parcels of land are located within a certified New York State Agricultural District, or within 500 feet of the boundary of a certified New York State Agricultural District as defined in Article 25AA of the New York State Agriculture and Markets Law, the following shall apply to any residential or non-residential development:
  - (a) Required Disclosure. The Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units, or place as a plat note as follows:

"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products,

and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

This disclosure shall be required as a note on a subdivision plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, inclusion in an offering plan or real estate listing information sheet, or letter of notification.

(10) Multiple Farm Businesses on Farm.

Agricultural operations located within a certified New York State Agricultural District shall be allowed to have multiple farm-related businesses including but not limited to processing and direct sales on the premises provided all such businesses are related to the primary agricultural operation. All farm-related businesses shall meet all other requirements of this zoning law.

## 17.7 Slaughterhouses

Purpose. To accommodate farms in Copake so that they can slaughter, process or sell their farm products in a manner that balances the needs of those farmers and nearby residents.

- A. An on-farm poultry or rabbit processing facility is a permitted agricultural use in an Agricultural District established pursuant to Article 25-AA of the New York State Agriculture and Markets Law, subject to the following requirements and restrictions:
- B. Applicability and Exemptions.
  - [1] These local regulations shall apply to any poultry or rabbit processing facility that slaughters and/or processes between 1,001 and 8,000 poultry birds or rabbits, or between 256 and 2000 turkeys, per year.
  - [2] For purposes of this subdivision, one turkey shall be counted as four poultry birds.
  - [3] A facility that slaughters or processes in excess of 8,000 rabbits or birds, or 2,000 turkeys, per year is prohibited.
  - [4] A poultry or rabbit processing facility that slaughters or processes up to 250 turkeys or 1,000 rabbits or poultry birds of other species annually or that is exempt from the licensing provisions of Article 5-A of the New York State Agriculture and Markets Law pursuant to section 96-d of such article shall be exempt from the requirements and restrictions of this subdivision.
  - [5] This section shall not be construed to prohibit or regulate custom slaughtering or the slaughtering or processing of animals exempt from the licensing provisions of Article 5-A of the New York State Agriculture and Markets Law pursuant to the enumerated exemptions contained within section 96-d of such article.

C. Regulations.

- [1] The poultry or rabbit processing facility shall be located on the premises of a farm operation, as such term is defined in section three hundred one of the New York State Agriculture and Markets Law.
- [2] No animals except poultry and rabbits raised on the premises of the farm operation on which the poultry or rabbit processing facility is located shall be permitted to be slaughtered or processed. An animal shall be considered “raised” on the host farm operation if it was fed, sheltered, or otherwise tended to on the premises of such farm operation for at least seventy-five percent (75%) of its life span immediately preceding its slaughter and processing.
- [3] There shall be a limit of 8,000 poultry or rabbits, or 2,000 turkeys, or a proportional combination thereof, slaughtered or processed in any calendar year.
- [4] No person shall operate a poultry or rabbit processing facility unless that person has first obtained any and all required state and federal licenses or permits, including USDA certification, where required.
- [5] The processing facility must meet all state and county regulations applicable to the facility and must be brought up-to-date when such regulations are revised.
- [6] Before a building permit is issued for a poultry or rabbit processing facility or a poultry or rabbit processing facility can be deemed a permitted agricultural use, the applicant must obtain a modified site plan approval from the Planning Board. Any change in use of an existing building or site to a processing facility requires a building permit and modified site plan approval by the Planning Board. A purpose of the modified site plan review is to ensure the health and safety of residents in any adjacent homes and, to the maximum extent practicable, to minimize or avoid adverse effects upon the environment and adjacent residences. A public hearing upon the application shall be held unless the Planning Board determines such hearing to be unnecessary, based upon the scope of the application and its potential impact upon the environment or surrounding properties. A modified site plan review for purposes of this section shall require the submission of, and consist of a review of, the following:
  - [a] Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties, the owners of such contiguous properties, and any known easements or rights-of-way and roadways.
  - [b] Identification of the existing features of the site including land and water areas, water, sewer or septic systems, and the approximate location of all existing structures on or immediately adjacent to the site.
  - [c] Representation of the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.
  - [d] Indication of the proposed location and arrangement of specific land uses, such as pasture, crop fields, woodland, livestock containment areas, or manure storage or composting sites.
  - [e] Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views, including copies of any available blueprints, plans or drawings of same.
  - [f] A showing or statement by the applicant that any exterior lighting installed in connection with the processing facility shall be downward-directed and installed so that no part of the light bulb or light source is visible beyond the property boundary.
  - [g] A description of the existing and/or proposed farm operation and a narrative of the intended use and location of proposed buildings, structures or signs, including any anticipated changes

- in the existing topography and natural features of the parcel to accommodate the changes. This shall include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
- [h] If a structure is proposed to be located within 200 feet of a stream, pond, lake, or other water body or wetland, the applicant shall provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
  - [i] Application form and fee, if required.
- [7] The land upon which the facility rests must be a minimum single parcel of seven acres.
  - [8] The room or area within a structure where processing will take place must be set back a minimum of two hundred feet from any property line.
  - [9] Any new structure must be located a minimum of 100 feet from any stream, pond, lake, or other water body or wetland.
  - [10] These requirements apply whether the facility is newly constructed or a re-use of a barn or other existing structure.
  - [11] The Planning Board may authorize composting of offal based on the suitability of the site for such use in accordance with section three hundred one of the New York State Agriculture and Markets Law and section 17-2103 of the New York State Environmental Conservation Law. The Planning Board may require up to a five hundred foot setback for placement of the composting facility. If composting is not a viable method for addressing waste from the processing facility, the offal shall be removed from premises within twenty-four hours.

## **17.8 Private Use Solar Collectors**

- (1) Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town. Building permits shall be required for installation of rooftop and building-mounted solar collectors. Solar collectors used on a farm operation and used to provide electrical needs for such farm operation shall be permitted in all zoning districts in the Town.
- (2) Ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts of the Town, subject to the following requirements:
  - (a) The location of the solar collector meets all applicable setback requirements of the zone in which it is located.
  - (b) The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.
  - (c) The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed 1,000 square feet.
  - (d) A building permit has been obtained for the solar collector.
  - (e) The solar collector is located in a side or rear yard.
- (3) Where site plan approval is required elsewhere for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed ground-mounted and freestanding solar collectors.
- (4) All solar collector installations must be performed by a qualified solar installer, and prior to operation, the electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.

- (5) When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Tompkins County and other applicable laws and regulations.
- (6) No glare, lights, or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver or any motor vehicle or which are detrimental to public health, safety, and welfare.
- (7) If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the twelve-month period.

### **17.9 Non-Commercial Wind Power Facility (NCWPF)**

- (1) Non-farm Uses (Residential): A single NCWPF and its tower may be allowed on a single parcel of property. When NCWPF's are proposed for use as part of a farm operation, multiple NCWPF's and their towers shall be allowed provided the following criteria are met:
  1. That each on-farm NCWPF shall meet all standards and requirements set forth in this law; and
  2. That the aggregate effect of multiple NCWPFs on noise, visual disruption, electromagnetic interference, stray voltage, and other adverse environmental effects meets all standards and requirements of this law for a single NCWPF unit; and
  3. That when electrical output from NCWPF used for farm operation consistently results in net-metering of more than 110% of need, then in that case no additional NCWPF may be installed on that property.
- (2) Wind Power Tower Height: The maximum wind power tower height shall be 150 feet. The minimum distance between the end of the rotor blades and ground surface shall be 30 feet from the ground.
- (3) Guy Wires: Anchor points for any guy wires for a wind power tower shall be located within the property upon which the NCWPF is located and not on or across any above-ground transmission or distribution lines.
- (4) Over-speed Controls: All NCWPF shall be equipped with automatic over-speed controls. Conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- (5) Set-back: All wind power towers shall be set back from all adjoining property lines not owned by the applicant, and from all utility lines and rights of way, a minimum distance of 100% of the wind power tower height. The Planning Board may accept a set-back agreement between the NCWPF owner and the owner of adjoining property, and between the NCWPF owner and those with rights of way and easements on or through the NCWPF owner's property, for a set-back less than the above requirement provided that such agreement acknowledges the applicable requirements of this law and constitutes an easement that shall be recorded with the Columbia County Clerk to apprise any potential purchaser or subsequent owner of said adjoining property about the agreement. Any change to the minimum setback shall be approved by the Town of Copake Zoning Board of Appeals through an area variance.
- (6) Noise: The maximum noise level generated by NCWPF shall not exceed 40 dBA as measured at all adjoining property lines or rights of way.

## Updated Zoning Law August 2015

- (a) If there are prominent impulsive, amplitude modulated low frequency or tonal components to the sound generated by the NCWPF, there will be an additional 5dB penalty; therefore, the measurement would then be 35 dBA (LA90) maximum. If there should be a difference between the dBA (LA90) and dBC (LC90) measurements of 20 dB or greater, the 5 dB penalty will also be applied so that the noise level shall be no more than 35 dBA (LA90) as measured at all adjoining property lines.
  - (b) The Planning Board may, at the applicant's expense, retain a certified acoustic consultant of its choice to evaluate the potential noise impacts and mitigation measures for the proposed NCWPF and to advise the Planning Board.
  - (c) Any evaluation of actual or potential noise impacts must include at least four points of information: 1) a survey or estimate of the existing ambient background noise levels, with background sound pressure levels measured for the specific wind conditions under which the turbine will be operating including levels for the lowest, highest, and average wind speed conditions; 2) a measurement or prediction of acoustic power noise levels to be radiated from the turbine proposed for the site; 3) identification of a model for sound propagation, including one that assumes all directions are downwind at some time; and 4) comparison of calculated sound pressure levels from the proposed wind turbine with background sound pressure levels at the turbine site and at all adjoining property lines and rights of way.
- (7) Visual Disruption:
- (a) The NCWPF and its tower and blades shall be painted a non-reflective, unobtrusive color that blends all components into the surrounding landscape and sky to the greatest extent possible, and shall incorporate non-reflective surfaces to minimize glare and all other visual disruption.
  - (b) No lighting shall be allowed on the wind power tower at a height greater than 12 feet above grade, except to comply with Federal Aviation Administration requirements.
  - (c) No advertising or commercial logos or insignias, except the manufacturer's nameplate, shall be permitted on the NCWPF or tower.
  - (d) No flags or banners shall be placed on the NCWPF or tower.
  - (e) The siting of NCWPF and tower within a parcel and relative to adjacent properties should minimally impact the viewscape of habitable structures located on adjacent properties and the viewscape from public thoroughfares within a radius of one mile.
  - (f) All electrical transmission lines associated with the wind power project shall be installed underground in accordance with National Electrical Code Standards except for connections to a public utility company's transmission poles, towers, and lines. The Town may modify this standard if the project terrain is unsuitable due to environmental or ecological constraints.
- (8) Compliance with Building Code of New York State: A Building Permit shall be required prior to construction. Wind power facilities shall conform to applicable industry standards. Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories or an equivalent third party. A professional engineer shall certify, as part of the building permit application that the foundation and tower design of the wind power facilities are within accepted professional standards, given local soil and climate conditions. All tower structures shall be designed and constructed to be in compliance with pertinent provisions of the New York State Uniform Building and Fire Prevention Code.
- (9) Compliance with Other Regulatory Agencies: All NCWPF shall comply with all laws and regulations, including any installation approvals, established by Columbia County, New York State, and the Federal government, including their regulatory agencies (e.g. FAA).

- (10) Electrical Utility Notice: No NCWPF shall be installed until evidence has been presented to the Planning Board that the servicing utility company has been informed of the applicant's intent to install an interconnected, customer-owned NCWPF. Off-grid NCWPF shall be exempt from this requirement.
- (11) Electromagnetic Interference and Stray Voltage: The NCWPF shall be operated such that no disruptive electromagnetic interference or stray voltage is caused. The NWFP shall not interfere with microwave, cellular, or television/radio transmission/reception on adjacent or nearby properties. If harmful interference is caused, the NCWPF owner shall promptly mitigate the harmful disruption or damage, or cease operation of the NCWPF.
- (12) Abandonment of Use: A NCWPF that is not in use converting wind energy into electrical energy for on-site consumption for twelve successive months may be deemed abandoned by the Building Inspector or Code Enforcement Officer. Upon receipt of a Notice of Abandonment issued by the Building Inspector or Code Enforcement Officer, the NCWPF owner shall have 30 days to provide credible evidence to the Building Inspector or Code Enforcement Officer that use of the NCWPF has not been abandoned. If the Building Inspector or Code Enforcement Officer finds that credible evidence has not been presented, the NCWPF owner shall have 12 months from the date of the finding to restore the NCWPF to operation. If the NCWPF remains not in use at the conclusion of that 12 month period, the Town shall have authority to revoke the special use permit, and if the owner does not dismantle the NCWPF and tower within a period stated in the revocation notice, to enter the owner's property and cause the NCWPF and tower to be dismantled at the owner's expense. As a condition of special use permit and site plan approval, the owner shall agree to these provisions.
- (13) Resale of the NCWPF: There shall be no resale of the NCWPF and tower for use in the approved location except as part of the conveyance of the parcel on which it is located.
- (14) Discontinuation of Approval: Any NCWPF that has not begun to be constructed within one (1) year of the date on which the building permit was issued shall apply to the Planning Board for an extension of approval. Upon issuance of an extension, any building permit received shall also be extended.
- (15) Decision Criteria and Guidance: The Zoning Board of Appeals shall issue a special use permit only if the proposed NCWPF and tower and their location meet all of the standards and requirements set forth in this section, and where applicable, subject to the review of the project pursuant to the New York State Environmental Quality Review Act (SEQRA) and any conditions placed on the project by that review. Failure to meet any such standard or requirement, or failure to adequately mitigate potential impacts, shall be sufficient for denial of the special use permit. The Planning Board may impose reasonable conditions to avoid or mitigate potential impacts.
- (16) Application Materials and Process: The objective of the application is to have all pertinent information collected and available for review by the Planning Board and any interested parties as part of the special use permit and site plan review process. In addition to the standards and requirements of site plan and special use permits, the following shall be submitted as part of an application:
  - (a) Name, mailing address, and telephone number of the applicant and property owner. If the applicant is not the property owner, the application shall include authorization from the property owner for the applicant to act in his behalf.
  - (b) Address and location of the property on which the proposed NCWPF will be located, including tax map section, block, and lot number.
  - (c) A description of the wind power project, including:

Updated Zoning Law August 2015

- (1) the make, model, manufacturer's specifications, generating capacity, noise decibel data in dBA and dBC with the methods used to determine these measurements, and photograph of each proposed NCWPF and wind power tower;
  - (1) the maximum wind power tower height, length of rotor blades, number of rotor blades, and minimum height above ground of the end of the rotor blades;
  - (2) the structure(s) for which the NWFP will provide electrical power and the actual or anticipated electrical needs of those structures as documented by utility bills for the twelve months preceding application, or an architect's estimate, or similar facts;
  - (3) the total number of NCWPF and towers to be installed;
  - (4) the size of the lot on which the NWFP(s) and towers will be installed, the zoning designation of the site and adjacent properties, and whether that site is within a New York State Agricultural District;
  - (5) a sketch plan in sufficient detail to illustrate the property lines, size of lot, and location of the proposed NWFP(s) and tower(s) including guy wires and anchors, if any; location of other existing structures and uses on the lot; distance between the proposed NCWPF(s) and other structures and uses on the lot; elevation of the proposed NCWPF(s); location of electrical transmission lines if present or proposed and the distance from the NCWPF(s) to those lines; access routes to the proposed NCWPF(s); distance from the NCWPF to property lines; and setback distance equal to the wind power tower height drawn in circles on the plot plan with each proposed NCWPF at the center;
  - (6) An Environmental Assessment Form (EAF) and Visual EAF Addendum must be submitted in accordance with SEQR 6 NYCRR Part 617. The Planning Board may require the Long Form EAF if it believes the additional information is necessary given the specifics of the application and proposed location. NCWPFs proposed for use on farm operations shall be considered a Type II action and therefore are exempt from SEQRA provisions;
  - (7) names and addresses of owners of all abutting properties, and of all properties located within 500 feet of the lot upon which the NCWPF(s) will be located.
  - (8) For NCWPFs proposed for non-farm use, an agricultural data statement is required if the proposed NCWPF will be located within an agricultural district containing a farm operation or on a property with boundaries within 500 feet of a farm operation located in a New York State Agricultural District.
17. The wind power project application shall include all proposed phases of installation and operation. Special use permit approval shall be based on the total planned project in order to assess all potential project impacts. The Planning Board shall consider project applications incomplete where there is reason to believe the application applies to only a segment of the total project. In such situations, the Planning Board shall return the application to the applicant with a letter stating the basis for its determination.
18. The Planning Board may require a visual assessment that includes, but is not limited to, a balloon test and visual simulations of the NCWPF and tower from specified vantage points—and shall conduct a site visit—to assess the visual impacts of the proposed NCWPF and tower.
19. The Planning Board may obtain advisory opinions about the wind power project application from town, Columbia County, New York State, and Federal officials, agencies, and designated consultants including but not limited to acoustic, visual impact consultant, planner, counsel and any other expert reasonably required by the Planning Board.
20. Costs for all reports, assessments, simulations, tests, expert consultants, or other information required by the Planning Board shall be borne by the applicant and paid before a special use permit is issued.

### **17.10 Vehicle Charging and Filling Stations.**

In any district where permitted, a vehicle fueling and charging station shall be subject to the following regulations:

- A.** Vehicle fueling and charging stations shall be permitted only on lots of one acre or more, with 150 feet minimum frontage.
- B.** The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
- C.** No fuel pump shall be located closer than 20 feet to any side lot line nor closer than 35 feet to any street line, measured from the outside edge of the fuel island.
- D.** No access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station, unless a public street lies between such service station and such building or use.
- E.** Lighting will be substantial but no glare shall be produced which interferes with vehicles or trespasses beyond the property line. Lights in any canopy shall be recessed.

### **17.11 Mobile/Manufactured Homes and Travel Trailers**

- A.** For Farm Use. Up to three mobile homes, or single or double-wide manufactured homes may be permitted as an accessory use to a farm, subject to Planning Board Approval, provided that:
  - (1)** The mobile home(s) are not occupied by the owner of the farm or are not the principal dwelling on that farm.
  - (2)** Such mobile home(s) shall be used only for the housing of a farm worker (and his immediate family) employed full time in agricultural activity on the farm where the mobile home is located.
  - (3)** Placement of such mobile home(s) shall occur only if the requirements of the Density Control Schedule of this chapter can be met.
  - (4)** It shall be certified by the Columbia County Health Department that water and sewage disposal for the mobile home(s) are in compliance with the New York State standards.
  - (5)** The mobile home(s) shall be screened or buffered from any abutting property or the public view.
  - (6)** An annual statement is made in writing to the Planning Board, by the owner of the farm, that the mobile home(s) is occupied by an employee engaged in full-time agricultural activity on the farm where the mobile home is located.
    - (a)** This annual statement shall be submitted on or before a date specified by the Zoning Officer.

- (b) The Zoning Officer will renew or revoke its approval of the mobile home(s) within 45 days of the submission of the annual statement.
  - (c) If the owner of the farm fails to submit the annual statement in a timely manner, or if the Zoning Officer determines that the conditions of this section are no longer complied with, such mobile home(s) shall be removed from the farm.
- (7) If such mobile home(s) becomes vacated by an employee and remains vacant for a period of one year, the mobile home shall be removed from the farm.
- B.** As Temporary Residence. An individual mobile home, recreational vehicle or travel trailer may be permitted as an accessory use by the owner for a period of three months. One two-month extension may be granted.
  - C.** Travel Trailer. Except as permitted under § 232-11B, travel trailers and recreational vehicles are permitted in campgrounds only.
    - (1) Nothing in this chapter shall prohibit the storing or parking of an unoccupied camping or travel trailer or the temporary parking of an unoccupied house trailer on any residential lot; provided, however, that such trailer must be located in the rear yard and shall not be located closer to the side lot line than the required side yard for the district in which located.
  - D.** Notwithstanding any provisions of this chapter, owners and/or lessees of property within the Town of Copake upon which house trailers have been situated and established prior to the enactment of said chapter shall retain such rights and prerequisites pertaining thereto, in the same manner as any other dwelling, and including the right to substitute another house trailer in the place of the house trailer presently situated and established on said property. Furthermore, notwithstanding any provision of this chapter, a house trailer may be placed on any lot for a period not to exceed one year only in the event of major destruction of a house situated on such lot or in the event of unusual hardship after special use permit by the Zoning Board of Appeals.

## **17.12 Cemeteries**

Burial or memorial plots or buildings shall not be closer than 20 feet to any property line and shall be adequately screened from adjacent residential property. (See § 232-11.4). Plots shall not be closer than 100' to any water well.

## **17.13 Airports and Flying Fields.**

- A.** Notwithstanding any other provision of this chapter, the use of the surface waters of Copake Lake, Robinson Pond, Upper Rhoda Pond, Snyder Pond and Chrysler Pond for aircraft landings, takeoffs or operation is hereby expressly prohibited.

## **17.14 Accessory Dwelling Unit.**

In any district where single-family residences are permitted, an accessory dwelling unit may be permitted by special use permit by the Zoning Board of Appeals, subject to the following conditions:

- A. Separate access to the accessory dwelling unit shall be required, preferably on the side or rear.
- B. The accessory dwelling unit shall consist of not more than two bedrooms, one full bath and appropriate kitchen, living and dining areas.
- C. All dwelling units including accessory dwelling units shall be subject to annual inspection by the Building Department to ensure that continued use is in conformance with these regulations.
- D. Current second floor safety egress and safety window requirements must be met.
- E. All dwelling units including accessory units must conform to the New York State Fire Prevention Code, have current septic approval from the County Department of Health, meet required setback regulations, and meet current egress and second floor window safety requirements.
- F. Accessory dwelling units in an accessory structure must conform to the dimensional requirements of this chapter of the Town Code.

### **17.15. Senior Citizen Housing.**

- A. In new apartment buildings, senior-citizen-type, there shall be a maximum of four apartments per building.
- B. In any district where permitted, the minimum lot size shall be calculated as follows: 20,000 square feet for the first unit, plus 10,000 square feet for each additional unit.
- C. Water and sewage systems shall be certified by the Columbia County Department of Health as complying with the New York State Sanitary Code.

### **17.16 Intermediate Care Facilities; Community Residences.**

Any intermediate-care facility or community residence shall conform to the requirements of the Office of Mental Retardation and Developmental Disabilities, as well as the New York State Uniform Fire Prevention and Building Code. *Editor's Note: See Ch. 129, Fire Prevention and Building Construction.*

### **17.17 Outdoor Wood Boilers**

#### **1. Purpose.**

- A. The Town of Copake recognizes the need to protect the public from the detrimental effects that pollutants produced by outdoor wood boilers cause, and the need to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of its residents by establishing and imposing restrictions upon the construction, installation, and operation of outdoor wood boilers (OWBs). Historically the northeast portion of the United States has always burned wood as a form of energy for heat. There is an ongoing need to further develop alternative nonfossil-fuel-dependent energy technologies as part of our economic and environmental survival. The Town of Copake recognizes that such devices and equipment are becoming more prevalent throughout the country and in the region.

- B.** Wood-burning devices emit particulate matter, carbon monoxide, and other pollutants known to be detrimental to the health of the public; exposure to these pollutants can cause short-term health harms such as eye, nose, throat, and lung irritation, coughing as well as shortness of breath; and long-term exposure to these pollutants can cause asthma, heart and lung disease, as well as cancer, and deprive neighboring residents of the enjoyment of their property. Therefore, in order to minimize the human health hazard resulting from the smoke and noxious fumes emitted by OWBs, to encourage proper siting, operation, location and use of these boilers, and to protect and promote the public comfort and convenience, the following regulations are needed in the Town of Copake.

## **2. Permit Required.**

- A.** Preexisting OWBs. The owner/occupant of any property where an OWB is installed and in operation prior to the effective date of this article shall be authorized to continue to operate the preexisting OWB, provided that the owner applies for a permit with the Building Inspector within 90 days of the effective date of this article. If the owner of an existing OWB does not apply for a permit with the Building Inspector and/or Zoning Enforcement Officer within 90 days, or within 30 days of notification by the Building Inspector and/or Zoning Enforcement Officer, the OWB shall be removed. If an OWB shall go unused for a period of 24 months, it shall no longer be considered a preexisting OWB.

- B.** New OWBs.

- (1) Site plan approval and a building permit are required prior to the installation of a new OWB or replacement of an existing OWB.
  - (2) From the effective date of this article, no person or legal entity shall cause, allow, install, establish, construct, maintain, operate, replace or use an outdoor wood boiler within the Town of Copake, unless the OWB is in compliance with the applicable provisions of this section and any conditions which may be included in the approval granted by the Planning Board and/or the building permit from the Town Building Department.

## **3. Permit Approval Process.**

- A.** Preexisting OWBs. A permit application shall include:

- (1) Submission of a written application on a form provided by the Building Inspector and/or Zoning Enforcement Officer;
  - (2) Payment of the permit application fee; this fee shall be waived if the applicant for the permit submits the permit application within the three-month period as provided by the permitting section for preexisting wood boilers above;
  - (3) A sketch plan depicting the OWB chimney height, all public roads within 100 feet and the location of the OWB in relation to the building that it serves and all other residential buildings within 500 feet of the existing OWB;

- (4) Proof that the outdoor wood boiler was installed in its current location prior to the effective date of this article. The applicant may submit to the Building Inspector and/or Zoning Enforcement Officer receipts, bills of sale, sworn statements or other documentary evidence. The Building Inspector and/or Zoning Enforcement Officer shall determine, based upon the documentary evidence submitted, site inspections, his personal knowledge, interviews with the applicant or any other persons, or any other information he reasonably considers to be relevant, whether the applicant has met this requirement;
- (5) Fees for permits as set by the Town Board.

**B. New OWBs.**

- (1) In reviewing an outdoor wood boiler, the Planning Board may approve, approve with conditions, or disapprove an outdoor wood boiler. The Board may impose such reasonable restrictions to protect the health, safety and general welfare of the Town as a condition of approval.
- (2) A permit application shall include:
  - (a) Site plan with OWB location drawn at a scale of one inch equals 20 feet with the following information shown:
    - [1] The legal boundaries of the lot to be served;
    - [2] The location of all dwelling(s) and building(s) existing and proposed on the lot to be served by the outdoor wood boiler and identification of those to be served by the boiler;
    - [3] The locations of all known easements and rights-of-way on the lot to be served;
    - [4] The location of all components of the outdoor wood boiler, including underground electric lines, fluid lines or ductwork;
    - [5] The proposed wood burner stack height;
    - [6] The location of all roads, pass ways and rights-of-way within 100 feet of the proposed outdoor wood boiler;
    - [7] The location of all dwelling(s) and building(s) existing within 300 feet of the proposed outdoor wood boiler, whether or not on the lot to be served by the outdoor wood burning boiler; and
    - [8] Identification of the prevailing wind direction.
  - (b) The manufacturer's owner's manual and installation instructions.
  - (c) Any other information that the Board requests that will help the Board reach a decision and establish appropriate conditions.

(d) Fees for permits as set by the Town Board.

**4. Approval Criteria and General Standards.**

**A. All new OWBs shall:**

- (1) Be installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Code. In the event of a conflict, the requirements of this Code shall apply unless the manufacturer's instruction are stricter, in which case the manufacturer' instructions shall apply;
- (2) Be laboratory tested and listed to appropriate safety standards such as Underwriters Laboratory (UL), American National Standards Institute (ANSI) or the Canadian Standards Association (CAN/CSA);
- (3) Meet the EPA's Phase 2 (white hang tag or latest established phase) Program standards for air emissions; and
- (4) Be equipped with a properly functioning spark arrester unless the use of a spark arrester is contrary to the outdoor wood boiler manufacturer's standard, written instructions or recommendations.

**B. New OWB setbacks:**

- (1) Lot/property line: 100 feet.
- (2) Residence served by OWB: 25 feet.
- (3) Any residence not served by OWB on any property: 100 feet.
- (4) Hospital, school, licensed daycare center, nursing home, park or outdoor recreation facility: 750 feet.
- (5) Public road: 100 feet.

**C. Chimney (stack) height for any new or preexisting outdoor wood boiler.**

- (1) Chimney height must be at least 12 feet above the ground level. If the OWB is covered or enclosed the chimney height must also be at least two feet above the roof of the enclosing structure but in no case less than 12 feet above the ground level and in accordance with the manufacturer's specifications, if less.
- (2) Preexisting OWB's have one year from the effective date of this article enactment to comply with chimney height.

**D. Fuel for any new or preexisting outdoor wood boiler.**

- (1) Permitted fuel:

Updated Zoning Law August 2015

- (a) Firewood;
  - (b) Wood fuel;
  - (c) Untreated lumber;
  - (d) Wood pellets;
  - (e) Corn products;
  - (f) biomass pellets;
  - (g) Other fuels specifically permitted by the manufacturer's instructions, such as fuel oil, natural gas or propane backup.
- (2) Prohibited fuel.
- (a) Any wood that does not meet the definition of wood fuel;
  - (b) Refuse;
  - (c) Plastics (including but not limited to nylon, PVC, ABS, polystyrene or urethane, foam and synthetic fabrics, plastic films and plastic containers);
  - (d) Gasoline or waste petroleum products;
  - (e) Rubber;
  - (f) Naphtha;
  - (g) Material treated with petroleum products (particle board, railroad ties and pressure-treated wood);
  - (h) Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products;
  - (i) Industrial waste;
  - (j) Toxic chemicals;
  - (k) Contaminated waste;
  - (l) Newspaper, cardboard, or any paper with ink or dye products and wastepaper;
  - (m) Animal waste;
  - (n) Food packaging;

(o) Paints and paint solvents;

(p) Coal; and

(q) Any other material prohibited for combustion by state or federal statute.

**E.** Emissions. In any new or preexisting outdoor wood boiler, notwithstanding any of the above, in no event shall the emissions of the outdoor wood boiler exceed any mandatory emissions standard promulgated by any agency, division, department or office of the federal or New York State government and emissions shall not reasonably interfere with the public health, safety, and welfare of residents nor prevent same residents from reasonable enjoyment of their life and property.

**5. Permit Suspension.**

**A.** A Permit issued pursuant to this section may be suspended by the Building Inspector if he/she finds that such a suspension is necessary to protect the public health, safety and welfare of the residents of the Town of Copake. Violation of any provision of this section may be cause for a permit suspension.

**B.** Notwithstanding the other enforcement provisions of this chapter, the Building Inspector may suspend an OWB permit if, in the Building Inspector's opinion, the OWB has been installed or is being operated in a manner that is not in accordance with the manufacturer's specifications and the applicable provisions of this Code; he may suspend the permit until such time he is satisfied that all necessary corrective action(s) have been taken by the permit holder.

**C.** A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are received that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation subject to the enforcement provisions of this chapter.

**6. Effect of Other Regulations.**

Outdoor wood 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. 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 and any other federal, state, regional or local agency. All prior local laws, resolutions and regulations regulating OWBs which are inconsistent with the provisions of this article are hereby repealed.

**7. Outdoor Wood Boiler Definitions.**

As used in this sub-section, the following terms shall have the meanings indicated:

**CHIMNEY or STACK**

Flue or flues that carry off exhaust from an OWB firebox or burn chamber.

**EPA**

The United States Environmental Protection Agency.

**EPA PHASE 2 PROGRAM**

EPA Phase 2 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.

**FIREWOOD**

Trunks and branches of trees and bushes, but does not include leaves, needles, and vines or brush smaller than two inches in diameter.

**GROUND LEVEL**

Base of unit.

**OUTDOOR WOOD BOILER (OWB)**

Any equipment, device or apparatus, or any part thereof which is designed to be installed, affixed or situated outdoors, or in a shed or garage, for the primary purpose of combustion of firewood or untreated lumber to produce heat or energy used as a component of a heating system providing heat for any interior space other than the building in which it may be located, or a swimming pool, hot tub or other hot water uses.

**PRE-EXISTING OUTDOOR WOOD BOILER**

An OWB that was purchased and installed prior to the effective date of this article.

**REFUSE**

Any animal, vegetable, or mineral, solid, liquid, or gaseous waste. It includes, but is not limited to, rubbish, garbage, ashes, construction waste, industrial waste, commercial waste, demolition waste, agricultural waste, abandoned vehicles, and any unwanted or discarded material. It does not include hazardous waste.

**WOOD FUEL**

All wood intended to be used as fuel, including but not limited to trees, cordwood, logs, lumber, sawdust, wood pellets, slabs, bark, chips, waste pallets and wood from manufacturing processes (butt offs, shavings, turnings, sander dust), as well as other solid fuels that are approved for use by the manufacturer of the OWB. This definition does not include materials that have been painted, pigmented stained, or pressure treated by compounds such as chromate copper arsenate, pentachlorophenol or chemically treated with any preservative, paint, or oil.

## **Article VI Site Plan Review**

### **§ 232-18. Site plan review and approval.**

- A. Prior to the issuance of a building permit for a commercial use in any business district, or for any multifamily dwelling, or for more than four apartments, condominiums, or townhouses in any district, or any drive-in facility, the Building Inspector shall require site plan approval pursuant to this section. Some agricultural uses may require a modified site plan review and approval as per Section 232-18 (I). Subdivisions shall also require site plan approval, to be conducted at the same time as subdivision approval. However, approved subdivisions which locate and define the building envelope during the subdivision process do not require site plan review. Construction of single family dwellings on parcels not part of a subdivision do not require site plan review and approval.
- B. Exempted Uses. The following land use activities are exempted from the requirements of this Section and shall not require site plan review.

## Updated Zoning Law August 2015

- (1) Ordinary repair or maintenance of existing structures or uses.
  - (2) Farm stands.
  - (3) Clearing or grading incidental to an existing use or an exempted use.
  - (4) Exterior alterations to a residential structure. Minor changes to the exterior façade of a residential structure within the Hamlet are also exempt.
  - (5) Interior alterations that do not substantially change the nature or use of an existing commercial structure.
  - (6) Any change in use which does not require the issuance of a certificate of occupancy pursuant to the New York State Uniform Building and Fire Code or does not otherwise meet the requirements to undergo site plan approval.
  - (7) Residential garden uses and residential and commercial timber logging.
  - (8) Temporary garage and lawn sales that are in operation for no more than fifteen (15) days per year.
  - (9) Customary residential accessory uses having a building footprint of one hundred twenty (120) square feet or less.
- C. Integration of Procedures. Whenever the circumstances of a proposed development or application require compliance with this Site Plan Review Section and with another local law, ordinance or requirement of the town such as, but not limited to, Special Use Permits and Subdivision, the Planning Board and Zoning Board of Appeals shall integrate, to the extent reasonably practicable, site plan review with the procedural and submission requirements for such other compliance so as not to delay review and decision-making.
- D. Segmentation of Site Plan. The site plan application and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.
- E. Existing and Discontinued Uses, Structures, and Applications.
- (1) This law does not apply to uses and structures that are lawfully in existence as of the date this law becomes effective but does apply to any change in size or intensity of existing commercial or multi-family uses.
  - (2) Any use that requires site plan approval and that has been discontinued for a period of one (1) year or more shall thereafter be subject to a new review and approval pursuant to this law before the use may be resumed. Proposed uses and structures which have site plan applications before the Planning Board, but which have not yet received any site plan approvals from the Town of Copake, shall be subject to this law. See also Zoning Law Section 232-19 (A)(3).
- F. Site Plan Process
- (1) Sketch plan. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be

## Updated Zoning Law August 2015

required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

- (a) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access, signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.
  - (b) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features.
  - (c) A topographic or contour map of adequate scale and detail to show site topography.
- (2) Application for site plan approval.
- (a) An application for site plan approval shall be made in writing to the Chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.
  - (b) Site plan checklist.
    - [1] Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
    - [2] North arrow, scale and date.
    - [3] Boundaries of the property plotted to scale.
    - [4] Location of all natural features, existing watercourses, wetlands, streams, ponds and lakes, areas subject to flooding, steep slopes.
    - [5] Grading and drainage plan showing existing and proposed contours.
    - [6] Location, design, type of construction, proposed use and exterior dimensions of all buildings.
    - [7] Location, design and type of construction of all parking and truck loading areas, showing access and egress.
    - [8] Provision for pedestrian access.
    - [9] Location of outdoor storage, if any.

Updated Zoning Law August 2015

- [10] Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, including soil erosion and sediment control plan.
- [11] Description of the method of sewage disposal and location, design and construction materials of such facilities.
- [12] Description of the method of securing public water and location, design and construction materials of such facilities.
- [13] Location of fire and other emergency zones, including the location of fire hydrants.
- [14] Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- [15] Location, size and design and type of construction of all proposed signs.
- [16] Location and proposed development of all landscaping, buffer areas, including existing vegetative cover.
- [17] Location and design of outdoor lighting facilities.
- [18] Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- [19] General landscaping plan and planting schedule.
- [20] An estimated project construction schedule.
- [21] Record of application for and approval status of all necessary permits from state and county officials.
- [22] Identification of any federal, state or county permits required for the project's execution; and
- [23] Zoning District in which property is located.
- [24] Location, name and dimensions of all easements and right-of-ways.
- [25] Location and identification of historic structures, if any.
- [26] Elevation and façade treatment plans for all structures.
- [27] Identification if property is in a New York State Agricultural District and if any active agricultural operation is being conducted adjacent or within 500 feet of the proposed property. If so, an agricultural data statement may be required.
- [28] The environmental assessment form pursuant to SEQRA, Part 617.

Updated Zoning Law August 2015

(3) Additional Requirements for Site Plans. If, upon a review of the materials submitted by the applicant, the Planning Board determines that a proposed commercial project could have traffic, visual, or stormwater impacts, the Planning Board may require the applicant to prepare and submit, traffic impact analysis, drainage design reports, or a visual impact assessment plans as follows. Costs for all reports, assessments, or plans required by the Planning Board shall be borne by the applicant.

(a) For commercial applications, the following:

- (1) Copies of New York State Department of Environmental Conservation Well Completion Reports for completed well(s) (including the well log and pump test data).
- (2) Any and all water quality testing results.
- (3) The location(s) of all public water systems and other groundwater users within 1,500 feet of the proposed development boundaries;
- (4) The proposed means of storage, distribution, use, treatment, and/or disposal of wastewater, other wastes, chemicals, etc.
- (5) The proposed means of water supply, including if applicable an estimate of the total daily groundwater withdrawal rate;
- (6) A list of all petroleum, chemicals, pesticides, fuels and other hazardous substances/wastes to be used, generated, stored, or disposed of on the premises;
- (7) A description of the pollution control measures proposed to prevent ground water or surface water contamination; and
- (8) A statement as to the degree of threat to water quality and quantity that could result if the control measures failed.

(b) Traffic Report. Traffic Reports shall include the following for the study area:

- (1) Internal traffic flow analysis.
- (2) Existing and projected average daily traffic and peak hour levels.
- (3) Existing and projected intersection levels of service (LOS).
- (4) Directional vehicular flows resulting from the proposed project.
- (5) Proposed methods to mitigate the estimated traffic impact.
- (6) Identification of any pedestrian crossing issues.
- (7) The methodology and sources used to derive existing data and estimations.

Updated Zoning Law August 2015

- (c) Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:
- (1) A report that visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements).
  - (2) An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
  - (3) The Planning Board may require use of photo-simulations or balloon tests as part of the visual impact assessment.
- (d) Stormwater Management Plan. The contents of the stormwater management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The stormwater management and stormwater pollution prevention plans shall be prepared in compliance with the Stormwater Design Manual of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) program and with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations. The Planning Board shall also review the project in relation to the Town of Copake Comprehensive Plan (Water Study).
- (e) Hydrogeological Study. The Planning Board may require a hydrogeological study for any proposed project that has projected on-site groundwater withdrawals and/or on-site sewage disposal flows equal to or exceeding 2,000 gallons per day (gpd).
- (4) Less Intensive Review and Waiver Requirements for All Site Plans. The Planning Board may find that some requirements of this Section are not requisite in the interest of the public health, safety or general welfare as applied to a particular project or application or are inappropriate to a particular site plan. In such cases, the Planning Board may, in its sole discretion, waive any requirements for the approval of site plans submitted for approval provided such a waiver does not prevent or circumvent the purposes and intent of any Town of Copake law or regulation or the Comprehensive Plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. In granting waivers, the Planning Board may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. The Planning Board must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the site plan application and supporting documents. Requirements of this law may not be waived except as properly voted by the Planning Board.
- (5) Referral to Other Agencies and Boards. All site plan applications shall be subject to:

## Updated Zoning Law August 2015

- (a) Coordinated Review. The Planning Board may refer, or may be required by law to refer, the site plan for review and comment to other local and County agencies or their designated consultants, and/or to representatives of Federal and State agencies having jurisdiction over the site plan or some part of the proposed project.
- (b) Required Referral. Prior to taking the final action on the site plan, and at least ten (10) days prior to the Public Hearing, and where applicable, the Planning Board shall refer the plan to the Columbia County Planning Board for their review and recommendation pursuant to Section 239-m of the New York State General Municipal Law.
- (c) Referral to Other Town Committees. The Planning Board may request an advisory opinion from any Town appointed committee including but not limited to the the Town of Copake Conservation Advisory Council and Hamlet Revitalization Committee, if any, related to any application being considered for site plan approval.

### (3) Planning Board action on site plan.

- (a) Acceptance of Site Plan Application. The Planning Board shall, within forty-five (45) days of a site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter identifying and describing the application deficiencies. No application shall be considered complete until a negative declaration under SEQRA (6 NYCRR Part 617) has been issued or until a draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.
- (b) Public Hearing. The Planning Board shall conduct a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of the site plan application as complete and shall be advertised in the Town's official newspaper at least five (5) days before the hearing. The Planning Board shall give the applicant at least ten (10) days' notice by mail of the Public Hearing. The Planning Board shall send or cause to be sent notice of the Public Hearing to abutting property owners and those agricultural operators identified on the Agriculture Data Statement by certified mail, return receipt requested at least seven (7) days prior to the public hearing. The Planning Boards shall also send or cause to be sent notice of the Public Hearing to all adjacent municipalities when the proposed action is within five hundred (500) feet of the Town boundary.
- (c) Decision. Within sixty two (62) days of the close of the public hearing, the Planning Board shall render a decision on the site plan. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the site plan is approved, disapproved or approved with modifications. The Planning Board's statement may include modifications to be incorporated in the final site plan. Conformance with such modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

## Updated Zoning Law August 2015

- (1) Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
  - (2) Approval with Modifications. The Planning Board may approve the site plan and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall submit a modified final site plan in reproducible form. Upon approval and after payment by the applicant of all applicable fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk.
  - (3) Disapproval. The Planning Board shall make a written statement if disapproval is the decision. Upon disapproval of the site plan, the Planning Board shall, within five (5) business days, file the statement with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Board's reasons for disapproval.
- (4) Reimbursable costs. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant, not to exceed actual costs.
- (1) Escrow Accounts. As soon as possible after submission of any application, an escrow account shall be established from which withdrawals shall be made to cover the costs of consultant services to the Town. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the reviewing board.
  - (2) At the time of submission of any application, in addition to the application fee, the applicant shall submit an initial escrow account funding fee. Said fee shall be in an amount sufficient to cover the consultant services costs necessary to review the application and plans upon submission, and to offer recommendations to the reviewing board as to the amount of the initial escrow deposit. Thereafter, as part of a complete application, the applicant shall provide the recommended amount to the Town for the escrow account.
  - (3) The applicant shall be provided with copies of vouchers the consultants submit to the Town for payment for services at the time of their submission.
  - (4) All sums paid by the applicant shall be deposited by the Town in the escrow account, from which withdrawals shall be made. Any balance remaining, after approval or final action on any subdivision application and payment of fees for all consultant services, shall be returned to the applicant within forty five (45) days, but only if the applicant has filed the approved subdivision and complied with all conditions set forth by the Planning Board in the subdivision approval.

## Updated Zoning Law August 2015

- (5) When the balance in the escrow account is reduced to one-third (1/3) of its initial amount, the Town shall advise the applicant and the applicant shall deposit additional funds into said account to bring its balance up to the amount of the initial deposit. If such account is not replenished within ten (10) business days after the applicant is notified in writing of the requirement for such additional deposit, the Planning Board may suspend its review of the application and deny its approval.
  - (6) A building permit, certificate of occupancy, or other permit, approval or action being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been funded by the applicant.
  - (5) Performance guaranty. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Code Enforcement Officer after consultations with the Town Board, Town Engineer, Planning Board, Zoning Enforcement Officer, Town Attorney and other appropriate parties.
  - (6) Inspection of improvements. The Zoning Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.
  - (7) Integration of procedures. Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this chapter or other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.
  - (8) Once a site plan is reviewed, approved, stamped and dated by the Copake Planning Board, the conditions for approval shall be valid for three years. If no construction has begun after three years, the site plan must be resubmitted to the Planning Board for review and re-approval.
- G. Review of site plan. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:
- (1) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
  - (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  - (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - (4) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience and are properly designed and operated for public convenience, universal accessibility, public safety, and for consistency with rural road standards and desired aesthetic character.

- (5) Adequacy of stormwater and drainage facilities.
- (6) Adequacy of water supply and sewage disposal facilities.
- (7) 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.
- (8) Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
- (9) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- (10) The site plan is compatible with the goals, policies and standards set forth in the Town of Copake Comprehensive Plan.
- (11) Significant natural, cultural, and historical features on the site are preserved as much as possible (i.e. hills, water bodies, wetlands, vernal pools, stream buffers and streamside vegetated buffers, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, scenic locations, historical locations, and other areas of aesthetic and ecological interest).
- (12) Pollution of air, streams, wetlands, ponds, lakes, soils and groundwater supplies is avoided to the maximum extent practicable or mitigated.
- (13) Development will be compatible with its surroundings and in keeping with the character of the Town of Copake.
- (14) General Commercial Design Standards for Hamlet Districts Only: See also Design Standards required within the Scenic Corridor Overlay Zone. While Copake should not overly regulate the appearance of the Town, it is beneficial that growth and new construction, as well as renovation should be consistent with the sense of 'neighborhood' which currently exists. Thus, new development should be similar in context and compatible with existing development. These guidelines are intended to be general in nature and not to restrict creativity, variety or innovation. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals. The following design guidelines are for commercial development only:
  - (a) Context and Compatibility. New development should be similar in context and compatible with existing development. Context and compatibility with respected neighborhood buildings can be judged by the following major points of comparison:
    - 1. Roof shapes, slopes and cornices are consistent with the prevalent types in the area.
    - 2. Rhythm of building spacing along the street and overall scale are not interrupted.
    - 3. Proportions for facades and window openings are in harmony with the traditional types within the district.
    - 4. Materials, textures, and colors are similar, with natural and traditional building materials preferred.

Updated Zoning Law August 2015

5. Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) complement traditional examples in the area.
  6. Design standards for agricultural businesses and other non-residential uses in the RU zoning district are established to ensure that the character of the buildings used protects the rural character of the area. These should emphasize 'farm like' buildings, including gambrel roofs, wood siding, and a traditional appearance.
- (b) Building Placement.
1. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages, side walls or storage areas, face the street. Blank walls for commercial applications are discouraged but may be allowed at the discretion of the Planning Board under certain circumstances such as when the structure is along an alley or when facing another blank wall.
  2. The front façade of the building shall be parallel to the main street unless traditional orientation of buildings on that street differs for the majority of buildings.
- (c) Building Scale.
1. The scale and mass of buildings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with that of adjacent and nearby buildings as viewed from the all exposed (public) vantage points.
- (d) Building Façades
1. Exterior materials of new construction (and or renovation) shall be compatible with those traditionally used in the Hamlet.
  2. The road side of the building should look like the front façade.
- (e) Roof Types and Materials
1. All roofs shall be pitched with a minimum pitch of 5" vertical rise for each 12" horizontal run and have a roof overhang of traditional proportions on all structures. Muted colors are encouraged but not required.
- (15) Glare and light pollution that may be associated with new development.
- (16) Compatibility with active agricultural activities. The Town of Copake Conservation Advisory Council or Town of Copake Agricultural Advisory Committee, as they exist, or other local agricultural support agencies such as the Columbia County Soil and Water Conservation District, may be consulted regarding significance, location and type of agricultural activities that may be impacted by the proposed development.
- (17) Adequacy of control measures to prevent ground water or surface water contamination.
- (18) The proposed use will not result in reductions in groundwater levels or changes in groundwater quality that limit the ability of a groundwater user to withdraw ground water.
- H. Site plan review of telecommunications towers and facilities shall be in accordance with the provisions of Chapter 230 of the Code of the Town of Copake.
- I. Modified Site Plan Review for Agriculture and Agri-tourism Uses

A modified site plan review for purposes of this section shall require the submission of, and consist of a review of, the following:

- (1) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties, the owners of such contiguous properties, and any known easements or rights-of-way and roadways.
- (2) Identification of the existing features of the site including land and water areas, water, sewer or septic systems, and the approximate location of all existing structures on or immediately adjacent to the site.
- (3) Representation of the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.
- (4) Indication of the proposed location and arrangement of specific land uses, such as pasture, crop fields, woodland, livestock containment areas, or manure storage or composting sites.
- (5) Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views, including copies of any available blueprints, plans or drawings of same.
- (6) A showing or statement by the applicant that any exterior lighting installed in connection with the processing facility shall be downward-directed and installed so that no part of the light bulb or light source is visible beyond the property boundary.
- (7) A description of the existing and/or proposed farm operation and a narrative of the intended use and location of proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. This shall include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
- (8) If a structure is proposed to be located within 200 feet of a stream, pond, lake, or other water body or wetland, the applicant shall provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- (9) Application form and fee, if required.

## **Article VII Nonconforming Uses**

### **§ 232-19. Nonconforming uses, structures and lots.**

#### **A. Nonconforming uses.**

- (1) Continuation. Any nonconforming use which existed lawfully at the time of adoption of this chapter may be continued, subject to the following provisions.
- (2) Extension, modification, or replacement.
  - (a) Extension. A nonconforming use shall not be enlarged or extended beyond the area occupied by such use.
  - (b) Modification. A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified to any other use unless such modification creates

Updated Zoning Law August 2015

a use of the same or a less nonconforming nature, and then only with prior site plan approval by the Planning Board.

- (c) Replacement. If a nonconforming use is replaced by another use, such use shall conform to this chapter.
  - (3) Discontinuance. If a nonconforming use is discontinued for a period of 12 consecutive months, the use shall expire; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.
  - (4) Destruction and restoration. If any building or structure in which a nonconforming use is conducted is hereafter removed, or destroyed by fire, wind, explosion, structural failure or other natural cause, to the extent of 75% or more of its fair market value at the time of such damage, reconstruction for restoration of nonconforming use must be completed within one year or apply to the Code Enforcement Officer for an extension for more than one year for the nonconforming use.
- B. Nonconforming buildings and structures.**
- (1) Continuation.
    - (a) Any nonconforming building or structure which existed at the time of adoption of this chapter may be maintained so long as it remains lawful, subject to provisions outlined in Subsection B(2) below.
    - (b) Any building or structure for which a building permit which remains valid was lawfully issued prior to the adoption of this chapter, may be completed and used in accordance with the plans and specifications for such building or structure.
  - (2) Modification and replacement of such nonconforming buildings and structures.
    - (a) Modification.
      - [1] A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.
      - [2] A nonconforming building or structure shall not be added to, enlarged, reduced, or altered in any manner in a way which increases its nonconformity. Nothing herein, however, shall prevent the strengthening or increasing of the safety of all or part of a building or structure, provided that the repair or alteration will not increase the nonconformity.
      - [3] A single-family dwelling on a conforming lot may be enlarged or rebuilt within the dimensional and setback provisions of the district where it is located; however, such expansion and rebuilding shall not require the removal of nonconformities that may be a part of such dwelling.

Updated Zoning Law August 2015

[4] Where a single-family dwelling exists on a nonconforming lot, a second story may be permitted over the same footprint, provided such addition does not exceed the height limitations in the density control schedule.

[5] Any modification of a nonconforming building or structure, or structure on a nonconforming lot is subject to a site plan review and approval by the Planning Board, in accordance with § 232-18.

(b) Replacement. A nonconforming structure may be replaced to occupy the same space on the lot or rebuilt providing greater yard space and less lot coverage and not exceeding the height of the prior structure except as provided above.

C. Nonconforming lots.

(1) Nonconforming lots may be deemed conforming, and no variance shall be required, provided that:

(a) Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or less than the minimum lot area required for that district, in which case only one one-family unit may be constructed for the aggregate area.

(b) Such lot has an area of at least 5,000 square feet and a minimum width of 50 feet.

(c) It complies with all other requirements for the district in which it is located.

(2) Subdivision. A nonconforming lot may be subdivided if by its subdivision the lot is eliminated by having each and every subdivision of such lot purchased by the owner or owners of the adjoining properties to increase the size of said owner or owners' property or properties. No lot shall be reduced in area so that it creates a nonconforming lot.

(3) Where an in-ground septic system cannot be installed due to lot size or unsuitability of soil, an approved separated waste treatment system may be used with a special use permit.

(4) Exemption of lots shown on approved subdivision plats.

(a) In accordance with Town Law § 265-A, any lot proposed for residential use in a subdivision whose plat delineates one or more new streets, roads or highways and which subdivision plat has been properly approved by the Planning Board and filed in the office of the County Clerk prior to the adoption of this chapter, and whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter for that district shall be deemed conforming if it is built according to the minimum lot requirements in effect when the subdivision was approved. Such deemed conformance shall expire two years after the filing of the subdivision plat.

(b) If at the time of the filing of the subdivision plat referred to above there was no Planning Board vested with authority to approve subdivision plats, the exemption provided for in such a subdivision shall apply for a period of one year after the filing of said subdivision plat in the office of the County Clerk.

## **Article VI. Administration and Enforcement**

### **§ 232-20. Enforcement.**

- A.** This chapter shall be enforced by a Code Enforcement Officer/Building Inspector and Zoning Enforcement Officer appointed by the Copake Town Board when appropriate to the situation.
- B.** No building or structure shall be erected or moved, nor shall any driveway be located with access to a town road, nor shall any existing building or land be changed in use until a building permit therefor has been issued by the Building Inspector.
- C.** All applications for building permits shall be accompanied by two copies of a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot and such other information as may be required by the Building Inspector to determine compliance with this chapter. One copy of such plans, when approved by the Building Inspector, shall be returned to the applicant.
- D.** Building permit applications, plans and specifications, fee schedule, inspection schedule, certificate of occupancy, etc., shall be as specified in Chapter 129, Fire Prevention and Building Construction.
- E.** No land or building shall be used or changed in use, except in conformance with this chapter.
- F.** Any person may file a complaint with the Zoning Enforcement Officer regarding a violation of this chapter.
  - (1)** All such complaints shall be in writing and shall be signed by the complainant.
  - (2)** All such filed complaints shall be investigated by the Zoning Enforcement Officer and a report prepared thereon within 15 days and forwarded to the Town Board.
- G.** Where a violation of this chapter is determined to exist, the Zoning Enforcement Officer shall serve a notice of violation by certified mail, return receipt requested, upon the owner, agent or contractor of the building, structure or lot where such violation has been committed or shall exist, and on the lessee or tenant of the part thereof or of the entire building, structure or lot where such violation has been committed and shall exist, and on the agent, architect, contractor or any other such person who takes part in or assists in such violation or who maintains any building, structure or lot on which any such violation shall exist. Such notice of violation shall direct the correction or removal of the violation within 30 days of the notice.
- H.** In cases where the removal of the violation within 30 days would be manifestly impossible, the Zoning Enforcement Officer shall apply to the Town Board for a determination as to the reasonable period of time within such violation shall be removed.
- I.** If those persons so notified shall fail to remove such violation within the allotted time period, the Zoning Enforcement Officer shall charge them with such violation of this chapter before the appropriate court of law.

- J.** If, following the issuance of a notice of violation, the violation shall be removed but shall thereafter reoccur on the premises, no further notice of violation shall be required, and the Zoning Enforcement Officer is authorized to proceed directly with further enforcement procedures authorized by this chapter.
- K.** In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or lot, or to prevent any illegal act, conduct, business or use in or about such premises.
- L.** Lending institutions must follow Town Zoning and Subdivision Regulations.
- M.** Professional builders who operate without a building permit will be fined according to § 232-21.

**§ 232-21. Penalties for offenses.**

- A.** Any person or other legal entity who fails to comply with or who violates this chapter or who shall refuse a reasonable request to inspect any premises or who shall have aided or abetted the commission of any such violation shall each be guilty of a separate offense and, upon conviction thereof, shall be subject to a fine of not more than \$1000 or imprisonment for a term of not more than 15 days, or both. Each day after notice that a violation continues shall be deemed a separate offense. In addition, a civil penalty of \$100 per day may be assessed for any such violation, which civil penalty shall be recovered by the Town of Copake in a civil action.
- B.** Except as provided otherwise by law, such a violation shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.
- C.** Appropriate actions and proceedings may be taken at law or in equity to prevent or remedy unlawful violations or infractions of any portion of this chapter, and these remedies shall be in addition to penalties otherwise prescribed by law.

**§ 232-22. Zoning Board of Appeals.**

**A. Purpose:**

A Zoning Board of Appeals shall be maintained and operate in accordance with Article 16 of the New York State Town Law, Sections 267, 267-a and 267-b. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such Boards by Sections 267, 267-a, 267-b and any other applicable State law, and shall fulfill its duties in accordance with those grants of authority and in accordance with Section 232-22 (J) of this Zoning Law.

**B. Membership:**

The Board shall consist of five (5) members appointed by the Town Board for staggered terms of five (5) calendar years.

## Updated Zoning Law August 2015

1. All members and alternate members of the Zoning Board of Appeals shall be residents of the Town of Copake. No person who is a member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.
2. The Town Board shall appoint at least one (1) person as an Alternate Member of the Zoning Board of Appeals for a term of five calendar years. All provisions of this Zoning Law relating to zoning board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to alternate members. The Chairperson of the Zoning Board of Appeals may designate the alternate member to substitute for a member who is unable to participate in deliberations and decisions of the Zoning Board of Appeals due to conflict of interest on an application or matter before the Board. That designation of the Alternate Member shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. When so designated: the alternate member shall possess all the powers and responsibilities of such member of the board; shall be allowed to participate in discussions of the proceedings; and shall be allowed to vote. At all other times, an Alternate Member may participate in discussions of the proceedings, but may not vote except due to the disqualification of a regular member and a designation of substitution by the Chairperson.

### C. Terms of members now in office.

Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.

### D. Training and attendance requirements.

1. Each member of the Zoning Board of Appeals and each Alternate Member shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four (4) hours in any one (1) year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
2. To be eligible for reappointment to the Board, a member or alternate member shall have completed the required training.
3. No decision of the Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with this training requirement.

### E. Vacancy in office.

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.

### F. Removal of members.

## Updated Zoning Law August 2015

The Town Board may remove, after public hearing, any member or alternate member of the Zoning Board of Appeals for cause. Cause for removal of a member or alternate member may include one or more of the following:

1. Any undisclosed or unlawful conflict of interest.
2. Failure to attend 33% of the meetings during the course of one calendar year.
3. Failure to complete mandatory training requirements.

### G. Chairperson.

The Town Board shall appoint one of the Zoning Board of Appeals members as chairperson to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Zoning Board of Appeals members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may be provided by the rules of the Board. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the board may determine. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths to applicants, witnesses, or others appearing before the board and may compel the attendance of witnesses.

### H. Zoning Board of Appeals Clerk and public record.

Upon recommendation by the Zoning Board of Appeals in coordination with the Planning Board, the Town Board shall appoint a Zoning Board of Appeals Clerk who shall attend all proceedings of the Zoning Board of Appeals and, upon request, the proceedings of any of its committees.

1. The Clerk shall keep minutes of the proceedings of the Zoning Board of Appeals, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep record of its examinations and other official actions.
2. The Town Clerk shall provide for keeping a file of all records of the Zoning Board of Appeals, and those records shall be public records open to inspection at reasonable times and upon reasonable notice.

### I. Board of Appeals Procedure.

1. Meetings, minutes, records. Meetings of the Zoning Board of Appeals shall be open to the public except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
2. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the town clerk within five (5) business days and shall be a public record.
3. Assistance to Zoning Board of Appeals. The Board shall have the authority to call upon any department, agency or employee of the town for such assistance as the Board deems necessary.

## Updated Zoning Law August 2015

Such department, agency or employee may be reimbursed by the Town of Copake for any expenses incurred as a result of such assistance.

4. Hearing appeals. Unless otherwise provided in this Zoning Law or other local law, generally the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law adopted pursuant to Article 16 of New York State Town Law. For the purposes of this Law, the administrative official charged with enforcement shall include the Zoning Enforcement Officer, the Building Inspector and/or the Code Enforcement Officer as applicable pursuant to the provisions of this Law and those officers shall be referred to collectively in this Section of the Law as "Enforcement Officer". The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Enforcement Officer, to grant use and area variances. Where a proposed special use, site plan, or subdivision contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination by the Enforcement Officer.
5. Filing of administrative decision and time of appeal.
  - a. Each order, requirement, decision, interpretation or determination of the Enforcement Officer charged with the enforcement of the Town of Copake Zoning Law shall be filed in the office of such Zoning Enforcement Officer, within five (5) business days from the day it is rendered, and shall be a public record.
  - b. All appeals must be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Enforcement Officer by filing with the Enforcement Officer and with the Zoning Board of Appeals a notice of appeal. The notice of appeal shall: specify the grounds for such appeal; the relief sought; identify specifically the section of the Zoning Law or other code or law involved; describe precisely and in detail either the interpretation claimed or the variance or other relief that is sought and the grounds upon which it is claimed the relief should be granted. The notice of appeal shall be accompanied by a short or full Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), by an Agricultural Data Statement as required by NY AML 25-aa, and by other documents relevant to the appeal specified by the zoning Board of Appeals. The appellant shall also be required to pay a filing fee at the time of the filing of the appeal in an amount to be established by the Town Board. The cost of sending notices relating to such appeal by certified mail, or a reasonable fee relating thereto, shall be borne by the appealing part and shall be paid to the Board prior to the hearing of such appeal. Upon receiving a notice of appeal, the Enforcement Officer shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.
6. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Enforcement Officer determines and certifies in writing to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the Enforcement Officer, that by reason of facts stated in the certificate,, a stay would, in his or her opinion,, cause imminent peril to life or property. Should such a certification be made, the proceedings shall not be stayed other than by a restraining order granted by the Zoning Board of appeals or by a court of record on application, on notice to the Enforcement Officer from whom the appeal is taken and on due cause shown..

7. Public Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. The appellant and any other parties to the appeal shall be given written notice of the hearing date and of the fact that at such hearing he or she may appear in person or be represented by an attorney or other agent. Said notice shall be provided at least ten (10) days in advance of the hearing and shall be provided to the appellant by certified mail. The Zoning Board of Appeals shall additionally provide notice as follows:
  - a. The Zoning Board of Appeals shall give public notice of such public hearing by publication in an official paper of general circulation in the town at least ten (10) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
  - b. If a New York State Park or New York State Parkway shall be located within five hundred (500) feet of the property affected by the appeal, at least ten (10) calendar days prior to such public hearing, the Zoning Board of Appeals shall send notices to the regional State Park Commission having jurisdiction over the State Park or Parkway.
  - c. The Zoning Board of Appeals shall also give notice to the Columbia County planning agency as required by Section 239-m of the New York State General Municipal Law. Such notice shall be in writing sent at least ten (10) calendar days prior to such public hearing.
  - d. If the land affected by the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Clerk of the Zoning Board of Appeals shall also submit at least ten (10) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.
  - e. In any application or appeal for a variance, the Clerk of the Zoning Board of Appeals shall provide written notice of the public hearing, along with the substance of the variance appeal or application, to: the owners of all property abutting, or directly opposite, that of the property affected by the appeal; and to all other owners of property within five hundred (500) feet of the property which is the subject of the appeal. Such notice shall be provided by certified mail at least ten (10) calendar days prior to the date of the hearing. Compliance with this notification procedure shall be certified to by the Clerk.
  - f. The names and addresses of surrounding property owners to be notified in accordance with the forgoing shall be taken from the last completed tax roll of the Town.
  - g. Provided that there has been substantial compliance with this provision, failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in either granting or denying a variance from a specific provision of this Zoning Law.
8. Referrals and Notice to Columbia County Planning Board & Town of Copake Planning Board.

## Updated Zoning Law August 2015

- a. At least ten (10) days before such hearing, the Board of Appeals shall mail notice to the County Planning Board as required by Section 239-m of the New York State General Municipal Law. The notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of Section 239-m of the General Municipal Law. No action shall be taken by the Board of Appeals until an advisory recommendation has been received from the County Planning and Development Department or thirty (30) calendar days have elapsed since the Planning and Development Department received such full statement. In the event that the County Planning Board recommends disapproval of the requested variance or the attachments of conditions thereto within such time period or at a later date prior to final action by the Zoning Board of Appeals, the Board of Appeals shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after such final action, the Board of Appeals shall file a report of the final action it has taken with the County Planning Board.
  - b. The Zoning Board of Appeals shall transmit to the Town of Copake Planning Board a copy of the appeal or application, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of such advisory opinion prior to the date of the public hearing. The failure of the Planning Board to submit such report within thirty five (35) days from the date the Zoning Board of Appeals transmitted their request for an advisory opinion with a copy of the appeal or application to the Planning Board shall be interpreted as a favorable opinion for the appeal or application.
9. Compliance with state environmental quality review act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part 617 of the New York Codes, Rules And Regulations.
10. Time of decision. The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the hearing is completed. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
11. Voting requirements.
- a. Decision of the board. Except for the voting requirements for rehearing above, every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency the voting provisions of Section 239-m of the New York State General Municipal Law shall apply.
  - b. Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by this local law, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process.

12. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
13. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

J. Permitted action by the Zoning Board of Appeals.

1. Orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Enforcement Officer charged with the enforcement of such ordinance or local law, and to that end, shall have all the powers of such Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. Use variances.
  - (a) The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances.
  - (b) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
    - (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.
  - (c) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## Updated Zoning Law August 2015

- (d) Such use will be in conformance with the New York State Uniform Fire Prevention and Building Code, and applicable local codes and ordinances.

### 3. Area variances.

- (a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances as defined herein. In addition, the Zoning Board of Appeals shall also have the power to grant area variances which are necessary in the course of site plan, special use permit and subdivision application for which application for such area variance may be made directly to the Zoning Board of Appeals without the necessity of a decision or determination of an administrative official charged with enforcement of the zoning regulations as authorized by Sections 274-a(3) [site plan], 274-b(3) [special use permits] and 277(6) [subdivisions].
- (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
  - (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 Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- 4. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

- 5. Special Use Permits. The Zoning Board of Appeals shall have original jurisdiction for the consideration of Special Use Permits and shall follow procedures as per Section 232-22 (N).

K. Relief from Decisions.

Any person or persons, jointly or severally aggrieved by any final decision of the Zoning Board of Appeals, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be governed by the specific provisions of CPLR Article 78 except that the action must be commenced as therein provided within thirty (30) days after the filing of the decision of the Zoning Board of Appeals in the office of the Town Clerk

L. Strict Construction.

All provisions of this Section pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals shall act in strict conformity with all provisions of law and of this Section and in strict compliance with all limitations contained therein, provided however, that if the procedural requirements set forth in this Section have been substantially observed, no applicant or appellant shall be deemed deprived of the right of application or appeal.

M. Other Provisions of New York State Town Law Section 267-a.

All other provisions of New York State Town Law Section 267-a with regard to Zoning Board of Appeals procedure not set forth herein, are incorporated herein by reference and shall apply to the Zoning Board of Appeals.

**N. Special Use Permits**

A. Purpose.

Special Uses are considered permitted uses. They are allowed in many different zoning districts, but only upon the issuance of a “special use permit”. Special uses may be subject to conditions designed to protect surrounding properties and the neighborhood from negative impacts that may be associated with that permitted use. Because of their characteristics, or the unique characteristics of the area in which they are to be located, special uses require different consideration by the Zoning Board of Appeals so that they may be properly located with respect to the objectives of this law and their effect on surrounding properties.

B. Authorization to grant or deny special uses.

The Town Board authorizes the Zoning Board of Appeals to grant or deny special uses in accordance with the requirements set forth in this section. No use subject to a special use permit listed in this law may be permitted, enlarged or altered unless approved by the Zoning Board of Appeals.

C. Application for special use.

1. Information for Sketch Conference: The following information shall be submitted in writing to the Zoning Board of Appeals at least ten (10) days prior to the date of the next regular meeting of the Zoning Board of Appeals. Seven (7) copies of all sketch application information as set forth below shall be submitted.
  - a. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access, signs, existing and proposed vegetation, and other planned features; general anticipated changes in the existing topography and natural features; and,

## Updated Zoning Law August 2015

where applicable, measures and features to comply with wetland, stream, flood hazard and flood insurance regulations, if needed;

- b. An area map showing the parcel under consideration for a special use permit.
  - c. A topographic or contour map of adequate scale and detail to show site topography. The Zoning Board of Appeals shall have the discretion to waive the provision of a topographical map in the event that the applicant shall show that the contour of the subject matter parcel(s) does not impact in the project in any manner.
  - d. A sketch map showing locations of natural features such as wetlands, streams, or lakes.
  - e. A statement indicating which zoning district the project is proposed to be located in and whether that location is within the New York Agricultural District.
  - f. A description of the nature and intensity of the use.
2. Subsequent to the sketch conference, an application and information as required for site plan review Section 232-18 (F) (2) shall be delivered to the Zoning Board of Appeals at least ten (10) days prior to the date of the next regular meeting of the Zoning Board of Appeals. Seven (7) copies of all sketch and required application information as set in 232-18 (F) (2). All applicable information contained below, unless waived by the Zoning Board of Appeals.
  4. Where Site Plan Approval Also Required. Where site plan approval is also required for the use pursuant to the Schedule of Use Table, a Site Plan application and information pursuant to Section 232-18 of this local law shall accompany the special use permit application. The site plan review process shall be conducted concurrently with the special use permitting process.
  5. Waiver Request. The Zoning Board of Appeals may find that some requirements of this Section are not requisite in the interest of the public health, safety or general welfare or are inappropriate to a particular special use. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Zoning Board of Appeals. The Zoning Board of Appeals may waive any requirements for the approval, approval with modifications, or disapproval of site plans submitted for approval provided such a waiver does not prevent or circumvent the purposes and intent of this local law or the Comprehensive Plan. The Zoning Board of Appeals may, in granting waivers, incorporate such reasonable conditions as will in its judgment, substantially secure the objectives of the requirements so waived. The Zoning Board of Appeals must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the site plan application and supporting documents. Requirements of this law may not be waived except as properly voted by the Zoning Board of Appeals.
  6. Costs Associated with Special Use Permits and Escrow. The Zoning Board of Appeals reserves the right to hire professional consultants, at the applicants' expense, to review any information filed by the applicant including that filed under the SEQRA process. All costs related to the site inspection and review of a site plan, including any studies, reports, analysis, or other information that may be required by the Zoning Board of Appeals, shall be borne by the applicant. In addition to the application fees established by the Town Board, an escrow account, funded by the applicant, may be established to cover all costs related to the review of a site plan. The applicant shall supply the Zoning Board of Appeals information as may be required to calculate the dollar amount required for the escrow account.

The Board may require assistance in this review in the form of professional review of the application by a designated private planner, engineer, attorney, or other type of consultant., In that case, or if the Board incurs other extraordinary expense in order to properly to review documents or conduct special studies in connection with the proposed application, the reasonable costs incurred by the Zoning Board of Appeals for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application, Special Use Permit expansion application, or Special Use Permit renewal application, shall be charged to the applicant.

The Zoning Board of Appeals shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit, special use expansion or special use permit renewal. The amount so determined by the Zoning Board of Appeals shall be deposited by the applicant in escrow with the Town Clerk, in accordance with Section 232-18 (F)(4) of this Zoning Law, prior to the Zoning Board of Appeals commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Zoning Board of Appeals determines that the remaining amount will not be sufficient to complete the review of the application, then the Zoning Board of Appeals shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this provision, the Zoning Board of Appeals, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use permit, special use expansion or special use permit renewal be approved until such sums have been paid in full.

#### D. Procedures

1. **Sketch Application.** A sketch conference application containing the information in C (1) of this section shall be submitted to the Zoning Board of Appeals. An informal sketch conference between the applicant and the Zoning Board of Appeals shall be conducted prior to submission of a special permit application to review the proposed development. The intent of the sketch conference is to enable the applicant to inform the Zoning Board of Appeals of the proposal prior to the preparation of a detailed application, and for the Zoning Board of Appeals to review the proposed use, advise the applicant as to potential problems or concerns, and to generally determine the information to be required on the special use application. The Zoning Board of Appeals may schedule a site visit by at least two of its representatives to familiarize itself with the parcel and project. At the sketch plan conference, the Zoning Board of Appeals will review and determine if the proposal is in conformity with the Town of Copake Zoning Law, level of consistency with the Comprehensive Plan, and identify issues and concerns. The Zoning Board of Appeals shall also review with the submission requirements to determine what specific information is to be presented with the special use application.
2. **Special Permit Application.** Subsequent to the sketch conference, the Zoning Board of Appeals shall, within forty-five (45) days of a special use application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies.
3. **Public Hearing Required.** Within sixty two (62) days of receipt of a complete application, the Zoning Board of Appeals shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing.

In addition, not less than (10) days before the date of the hearing (not counting the date of the hearing), written notice of the public hearing shall be mailed to the applicant, to abutting property

## Updated Zoning Law August 2015

owners and those agricultural operators identified on the Ag Data Statement, and to the Columbia County Zoning Board of Appeals, as required by section 239-m of the general municipal law.

The notice shall include the name of the project, the location of the project site, a brief description of the project, and the date, place, time and subject of the public hearing at which the special use application will be reviewed. If an application for special use permit approval contains an agricultural data statement, written notice of such application, including a description of the proposed project and its location, shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. The Columbia County Zoning Board of Appeals shall have thirty (30) days to review the full statement of the proposed action.

4. SEQRA. The Zoning Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete for decision making until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.
5. Decisions
  - a. Time of decision. The Zoning Board of Appeals shall decide upon the special use permit application within sixty two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-l and 239-m. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.
  - b. Type of Decision. In rendering its decision the Zoning Board of Appeals shall approve, disapprove or approve with modifications and conditions the special use permit application. In authorizing the issuance of a special use permit, the Zoning Board of Appeals has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of a special use permit, any such conditions must be met in connection with issuance of permits by the Zoning Enforcement Officer.
  - c. The Zoning Board of Appeals shall require proof that all permits required by other agencies have been applied-for prior to final approval.
  - d. Filing. The decision of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.
  - e. Extension of Time to Render Decision on Special Use Permit. The time period in which the Zoning Board of Appeals must render its decision on the special use permit may be extended by mutual consent of the applicant and the Zoning Board of Appeals. Failure of the Zoning Board of Appeals to act within the time period specified or agreed upon between the applicant and Board, shall constitute Zoning Board of Appeals approval of the site plan as submitted or last amended, and shall be deemed automatic approval.
6. Expiration of Special Use Permit. A special use permit shall become void one (1) year after approval unless the applicant shall have commenced and substantially proceeded with the use. If there has been no activity related to the approved use for more than one year, the special permit shall become void. The Zoning Board of Appeals may extend the period one time for a period of no more than six (6) months.

7. **Renewal of Permit.** The Zoning Board of Appeals, as a condition of approval, may require that special use permits be renewed periodically. Thirty (30) days prior to the expiration of a special use permit, the applicant shall apply to the Zoning Enforcement Officer for renewal of the special use permit. The Zoning Enforcement Officer shall inspect the premises, verify that conditions of the permit have been met, and renew the permit for a time equal to the original special use permit. Where the Zoning Enforcement Officer determines that the applicant has not complied with the special use permit, permit renewal shall require Zoning Board of Appeals approval.
8. **Area variance.** Application for an area variance related to any special use permit proposal may be made directly to the Zoning Board of Appeals without the necessity of a decision or determination of the Zoning Enforcement Officer.
9. **Existing violation.** No special use permit shall be issued for a property in violation of this Zoning Law unless the granting of a special use permit will result in the correction of the violation.
10. **Deemed to be conforming.** Any use for which a special use permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the special use permit shall affect only the lot, or portion thereof, which is the subject of the special use permit application.
11. **Expansion of special use.**
  - a. Once a special use permit has been granted, it shall run with the land and apply to the approved use unless the special use permit has been voided.
  - b. Any change to a specially permitted use that involves new construction, enlargement, exterior alteration of existing structures, increased parking, an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or other changed use of outdoor areas shall require a new or amended special use permit in accordance with the procedures set forth in this Zoning Law.
12. **Court Review.** Any person aggrieved by a decision of the Zoning Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by such board in the office of the Town Clerk. The Court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The Court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

E. Factors for consideration.

1. In approving any special use permit, the Zoning Board of Appeals may impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standards specified in this local law, as it may deem necessary to protect the public interest and welfare and to be consistent with the Town of Copake Comprehensive Plan. The proposed special use shall conform to the character of the neighborhood within which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety, or welfare of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district. The Zoning Board

## Updated Zoning Law August 2015

of Appeals may prescribe appropriate conditions and safeguards to ensure accomplishment of the following objectives:

- a. Compatibility of the proposed use with surrounding properties, and with the natural and built environment in the area.
- b. Adequacy of parking for the proposed use and use of shared parking where feasible.
- c. Accessibility to fire, police, and emergency vehicles.
- d. Suitability of the property for the proposed use considering its size, topography, vegetation, soils, and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- e. The proposed use shall protect natural environmental features and not generate excess noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
- f. Vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls shall be adequate to serve the special use and not negatively impact the overall traffic circulation system of the neighborhood and the Town.
- g. Pedestrian traffic access and circulation will be provided-for in a safe and effective manner.
- h. Location, arrangement, size, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible with the neighborhood in which it is located and with the rural and small town character of Copake.
- i. Landscaping is appropriate to act as a visual and/or noise deterring buffer between the project and adjoining properties.
- j. Adequacy of park and recreational facilities to meet the needs of multi-family developments.
- k. Stormwater and drainage, sanitary waste and sewage, water supplies for fire protection, drinking and general consumption, solid waste disposal and snow removal storage areas are adequate to serve the use.
- l. The character of the town, neighborhood and values of surrounding properties are safeguarded, including protection against noise, glare, unsightliness, or other objectionable features.
- m. The special use shall not negatively impact historic, scenic, or natural environmental features.
- n. The location and size of the proposed use, the nature and intensity of operations involved in or conducted in connection with the use, the size of the site in relation to the use, and its site layout are all compatible with existing neighborhood uses and the environment.
- o. The proposed use shall not diminish or impair the use and enjoyment of the property in the immediate vicinity for purposes already permitted, nor substantially diminish or impair the property values within the neighborhood.
- p. The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

- q. The public interest and welfare supporting the proposed use shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.
- r. The Zoning Board of Appeals shall evaluate the impact of the proposal on existing agricultural operations in that district.

### **§ 232-23. Amendments.**

Amendments to this chapter shall be in accordance with § 265 of the Town Law of the State of New York, and as follows:

- A.** Procedure. The Town Board may, from time to time, on its own motion or on petition or on recommendation from the Planning Board, amend the regulations and district established under this chapter after public notice and hearing in each case. All petitions for any amendments of the regulations or districts herein established be filed in writing in a form required by the Town Board.
- B.** Advisory report by Planning Board. Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 60 days from the date of receipt of notice, or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.
- C.** Public notice and hearing. The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:
  - (1) By publishing a notice of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town not less than 10 days prior to the date of public hearing.
  - (2) By giving written notice or hearing to all adjoining towns and to any required county, state or federal agency in the manner prescribed by law.
- D.** Protest by owners. If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least 3/4 of the members of the Town Board.
- E.** Publication and posting. Every amendment to the Zoning Chapter, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board, and a copy thereof, exclusive of any map incorporated therein, shall be published once in the official newspaper of the Town and a copy of such amendment together with a copy of any map incorporated therein, shall be posted on a sign board maintained by the Town Clerk pursuant to Subdivision 6 of § 30 of the Town Law. Affidavits of the publication and posting thereof shall be filed with the Town Clerk.

**§ 232-24. Interpretation and application.**

- A. Legislative intent. In their interpretation and application, the provisions of this chapter shall be held to a minimum requirements adopted for the promotion of the public health, morals, safety and general welfare.
- B. Noninterference and precedence. This chapter shall not interfere with, abrogate, annul or repeal any ordinance or any rule, regulation or permit previously or hereafter enacted, adopted or issued pursuant to law, provided that, unless specifically excepted, where this chapter imposes greater restrictions its provisions shall control.
- C. Separate Validity. If any Article, subsection, paragraph, clause, or other provision of this Law shall be held invalid, the invalidity of such section, subsection, paragraph, clause or other provision shall not affect any of the other provisions of this Law.
- D. Effective Date. This law shall become effective upon filing with the New York State Department of State.

**§ 232-25. Table of Use Regulations.**

No building or premises shall be erected, altered or used except for one or more of the uses authorized under the Table of Use Regulations for the zoning district in which the property is located. A use that is not listed in this Use Table is considered prohibited.

KEY:

- P A use permitted by right
- X A conditional use contingent on securing a special use permit in each case from the Zoning Board of Appeals. When a special use permit is required, a site plan approval is required to be done concurrently.
- S A use contingent on securing a site plan approval from the Planning Board
- The use is prohibited

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
<b>Residential Uses</b>							
Accessory dwelling unit	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	-	--
Assisted Living Facility	<b>X</b>	<b>X</b>	--	-	-	-	-
Boardinghouse (6 units max.)	<b>X</b>	<b>X</b>	--	-	-	-	<b>X</b>
Single-wide Manufactured home as a single-family dwelling	Only for Farm Worker Housing	-	-	-	-	-	-
Double-wide Manufactured home as a single-family dwelling	<b>P</b>	-	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	-
Mobile home, Manufactured home for farm workers	<b>X</b>	-	--	-	-	-	-
Multifamily dwelling [See § 232-8I(1)]	-	<b>S</b>	--	-	-	<b>S</b>	-
One-family dwelling [See § 232-8I(1)]	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	-
Residential apartment in commercial building	<b>X</b>	<b>X</b>	<b>X</b>	-	<b>X</b>	<b>X</b>	<b>X</b>

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Senior Citizen Housing	<b>X</b>	-	<b>X</b>	-	<b>X</b>	<b>X</b>	-
Two-family dwelling	<b>P</b>	-	<b>P</b>	-	<b>P</b>	<b>P</b>	-
Dormitory	-	-	-	-	-	<b>X</b>	<b>X</b>
Townhouse	<b>X</b>	-	-	-	-	<b>X</b>	-
<b>General Uses</b>							
Accessory uses incident to any permitted use on the same lot	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>p</b>
Agriculture for home use	<b>P</b>	-	<b>P</b>	<b>P</b>	<b>P</b>	-	-
Bed And Breakfast	<b>X</b>	<b>X</b>	<b>X</b>	-	<b>X</b>	<b>X</b>	-
Cemetery	<b>X</b>	-	--	-	-	-	-
Church or other place of worship	<b>X</b>	<b>X</b>	--	-	-	-	<b>X</b>
Cultural facilities (library, museum, etc.)	<b>X</b>	<b>X</b>	<b>X</b>	-	<b>X</b>	<b>X</b>	<b>X</b>
Minor home occupation (§ 232-17.1)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	-

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Major Home Occupation (§ 232-17.1)	<b>S</b>	<b>S</b>	--	<b>S</b>	<b>S</b>	--	--
Day-care facility (Caring for > 5 people)	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	-
Federal, state, county or town offices, fire station, highway department	--	<b>S</b>	--	-	-	-	-
Golf course, country club	<b>X</b>	-	<b>X</b>	-	-	<b>X</b>	-
Geothermal, biomass, and micro-hydro green energy systems as accessory use for residential structure)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
High-tension transmission lines	-	-	--	-	-	-	-
Hospital, Nursing Home	--	<b>X</b>	--	-	-	-	-
Medical Facility	-	-	<b>S</b>	-	-	-	<b>S</b>
Membership or nonprofit club	<b>X</b>	<b>X</b>	<b>X</b>	-	<b>X</b>	<b>X</b>	-
Miniature golf, driving range	-	<b>S</b>	<b>X</b>	-	-	<b>S</b>	<b>S</b>

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Outdoor wood furnace (See Article VII, 232)	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>-</b>	<b>-</b>
Public utility lines (except high-tension transmission)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Public utility structures and buildings	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>-</b>
Resort hotel, resort lodge, resort ranch	<b>--</b>	<b>-</b>	<b>--</b>	<b>-</b>	<b>-</b>	<b>X</b>	<b>-</b>
School	<b>--</b>	<b>X</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>X</b>
Solar collector equipment, roof or ground mounted (non-commercial scale only)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>p</b>
Stable, private	<b>P</b>	<b>-</b>	<b>--</b>	<b>-</b>	<b>P</b>	<b>X</b>	<b>--</b>
Stable, public and Riding Academy (permitted within Agricultural Use Districts subject to seven acre minimum)	<b>S</b>	<b>--</b>	<b>--</b>	<b>-</b>	<b>P</b>	<b>S</b>	<b>S</b>
Summer camps	<b>X</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>X</b>	<b>-</b>
Retreats	<b>X</b>	<b>-</b>	<b>X</b>	<b>-</b>	<b>X</b>	<b>-</b>	<b>-</b>

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Telecommunications towers and facilities (see Chapter (230))	<b>X</b>	-	--	-	<b>X</b>	<b>X</b>	<b>X</b>
Wind Turbine, Non-Commercial Private Use	<b>X</b>	<b>X</b>	<b>X</b>	-	<b>X</b>	<b>X</b>	--
Urgent Care Facility	-	<b>X</b>	-	-	-	-	-
<b>Business Uses</b>							
Adult Entertainment	-	-	-	-	-	-	-
Agricultural Use	<b>P</b>	<b>P</b>	--	-	<b>P</b>	--	<b>P</b>
Agricultural-related business including Brewery/Distillery and Winery	<b>S</b>	<b>S</b>	--	-	<b>S</b>	-	-
Agri-tourism including Brewery/Distillery/Winery	<b>S</b>	<b>S</b>	<b>S</b>	-	<b>S</b>	--	<b>S</b>
Airport, flying field, seaplane	-	-	-	-	-	-	-
Bus Shelter/Stop	-	<b>P</b>	--	<b>P</b>	-	<b>P</b>	<b>p</b>
Commercial greenhouse	<b>S</b>	<b>S</b>	--	-	<b>S</b>	-	<b>S</b>
Convenience store	--	<b>X</b>	--	-	-	--	-

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Equipment and trailer, rental or sales, service	-	S	--	-	-	-	-
Farm Stand	P	P	P	-	P	-	P
Farm Market	X	S	--	-	X	--	--
Funeral home	-	S	-	-	-	-	-
Retail Store	--	S	--	-	-	S	-
Bar or nightclub	-	S	X	-	-	S	--
Laundry or dry-cleaning plant	-	X	--	-	-	-	-
Motel/Hotel	--	S	--	-	-	S	--
Motor Vehicle Repair (including Body Repair Shop, car wash, motor vehicle repair shop)	-	X	-	-	-	-	-
New- and used-car sales	-	X	--	-	-	-	-
Newspaper office, print shop	-	X	--	-	-	-	-
Professional office	--	S	--	-	-	--	--
Radio and television stations and towers	X	X	--	-	X	X	X

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Recreation Business	-	X	X	X	-	X	X
Restaurant	-	S	X	X	-	S	-
Service establishment (barbershop, repair shop, etc.)	-	S	-	-	-	S	-
Outdoor storage	S	S	-	-	S	S	-
Storage	X	S	-	-	-	-	X
Marina and Boat Storage	-	-	X	X	-	-	-
Vehicle Fueling Station	-	X	-	-	-	-	-
Vehicle Charging Station	-	S	-	-	-	S	-
Veterinary, animal hospital, kennel	X	X	-	-	-	-	-
Wholesale business or service	-	X	-	-	-	-	-
<b>Industrial Uses</b>							
Extractive operations and soil mining (See Definition)	X	-	-	-	-	-	-
Fuel storage and distribution	-	X	-	-	-	-	-
Light Industry	-	X	-	-	-	-	X

Updated Zoning Law August 2015

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler/Rhod a/Snyder Ponds	RE Resort	MU INST Mixed Use Institutional
Manufacturing	-	X	-	-	-	-	X
Power plant	-	-	-	-	-	-	-
Research laboratory, manufacture, assembly, fabrication	-	X	-	-	-	-	X
Wind Turbine, Commercial	-	-	-	-	-	-	-

NOTES:

1. Uses not permitted by right or as a conditional use, whether listed above or not, are prohibited.
2. The Flood Area Overzone (FAO) is superimposed on all districts without change in permitted use. However, all building permits for new construction or substantial improvements within the FAO must be submitted to the Planning Board for review in accordance with § 232-9, Flood district regulations.
3. Requires site plan permit under Ch. 232-18 of the Copake Town Code.

**Hamlet Districts**

Updated Zoning Law August 2015

<b>Uses</b>	<b>H</b>  <b>Hamlet (Copake, Copake Falls, North Copake, Craryville)</b>	<b>HB</b>  <b>Hamlet Business</b>
<b>Residential Uses</b>		
Accessory dwelling unit	<b>S</b>	<b>S</b>
Agriculture for home use – Crops	<b>P</b>	<b>P</b>
Boardinghouse (6 units max.)	<b>X</b>	<b>X</b>
Dormitory	<b>X</b>	<b>X</b>
Multifamily dwelling [See § 232-8I(1)]	<b>X</b>	<b>X</b>
One-family dwelling [See § 232-8I(1)]	<b>P</b>	<b>P</b>
Residential apartment in commercial building	<b>P</b>	<b>P</b>
Senior Citizen Housing	<b>P</b>	<b>P</b>
Two-family dwelling	<b>P</b>	<b>P</b>
Townhouse	<b>X</b>	<b>X</b>
<b>General Uses</b>		
Accessory uses not on the same lot	<b>P</b>	<b>P</b>
Bed-and-breakfast	<b>P</b>	<b>P</b>

Updated Zoning Law August 2015

<b>Uses</b>	<b>H</b> <b>Hamlet</b> <b>(Copake,</b> <b>Copake Falls,</b> <b>North Copake,</b> <b>Craryville)</b>	<b>HB</b> <b>Hamlet</b> <b>Business</b>
Cemetery	-	-
Church or other place of worship	<b>S</b>	<b>S</b>
Cultural facilities (library, museum, etc.)	<b>S</b>	<b>S</b>
Customary accessory structures and/or uses	<b>S</b>	<b>S</b>
Day-care center, commercial	<b>X</b>	-
Federal, state, county or town offices, fire station, highway department	<b>S</b>	<b>S</b>
Golf course, country club	-	-
High-tension transmission lines	-	-
Hospital, Nursing Home or similar	-	-
Medical Facility	<b>X</b>	<b>X</b>
Membership or nonprofit club	<b>X</b>	<b>X</b>
Miniature golf	<b>X</b>	<b>X</b>
Public utility lines (except high-tension transmission)	<b>P</b>	<b>P</b>
Public utility structures and buildings	--	<b>X</b>

Updated Zoning Law August 2015

<b>Uses</b>	<b>H</b>  <b>Hamlet (Copake, Copake Falls, North Copake, Craryville)</b>	<b>HB</b>  <b>Hamlet Business</b>
Retail sales of produce grown principally on the same lot	<b>P</b>	<b>P</b>
School	<b>X</b>	<b>X</b>
Solar collector equipment (non-commercial scale only)	<b>P</b>	<b>P</b>
Stable, public (permitted within Agricultural Use Districts subject to seven acre minimum)	--	--
Summer camps and retreats	--	--
Telecommunications towers and facilities (see Chapter (230)	-	-
Wind Turbine, Non-Commercial Private Use	<b>X</b>	<b>X</b>
Urgent Care Facility	<b>X</b>	<b>X</b>
<b>Accessory Uses</b>		
Customary home occupation minor (§ 232-17.1)	<b>P</b>	<b>P</b>
Customary home occupation major(232-17.1)	<b>S</b>	<b>S</b>
Outdoor wood furnace (See 232-17.17)	<b>X</b>	<b>X</b>
<b>Business Uses</b>		
Accessory uses incidental to any permitted use on the same lot	<b>S</b>	<b>S</b>

Updated Zoning Law August 2015

<b>Uses</b>	<b>H</b> <b>Hamlet</b> <b>(Copake,</b> <b>Copake Falls,</b> <b>North Copake,</b> <b>Craryville)</b>	<b>HB</b> <b>Hamlet</b> <b>Business</b>
Accessory uses not on same lot	<b>S</b>	<b>S</b>
Adult Entertainment	-	-
Agricultural use	<b>P</b>	<b>P</b>
Agricultural-related business	<b>P</b>	<b>P</b>
Agri-tourism	<b>P</b>	<b>P</b>
Airport, flying field, seaplane	-	-
Auto repair, car wash	-	<b>X</b>
Bus station	-	-
Commercial greenhouse	<b>P-</b>	<b>P</b>
Convenience store	<b>X</b>	<b>X</b>
Farm machinery, equipment, trailer, rental or sales, service	-	-
Funeral home	-	-
Vehicle Fueling station	<b>X</b>	<b>X</b>
Gift shop, antique shop	<b>P</b>	<b>P</b>

Updated Zoning Law August 2015

<b>Uses</b>	<b>H</b> <b>Hamlet</b> <b>(Copake,</b> <b>Copake Falls,</b> <b>North Copake,</b> <b>Craryville)</b>	<b>HB</b> <b>Hamlet</b> <b>Business</b>
Hotel, bar, nightclub, bowling alley, skating rink, dance hall, pool hall	<b>S</b>	<b>S</b>
Laundry	-	<b>S</b>
Dry Cleaning Plant	<b>S</b>	<b>X</b>
Motel	-	<b>X</b>
New- and used-car sales	-	<b>P</b>
Newspaper office, print shop	-	<b>S</b>
Professional office, bank, retail store	<b>S</b>	<b>S</b>
Radio and television stations and towers	-	-
Recreation, indoor	<b>P</b>	<b>P</b>
Recreation, Outdoor	<b>X</b>	<b>X</b>
Restaurant	<b>S</b>	<b>S</b>
Service establishment (barbershop, repair shop, etc.)	<b>X</b>	<b>X</b>
Storage	—	<b>X</b>
Storage of up to 5 construction vehicles with building setbacks	-	<b>S</b>

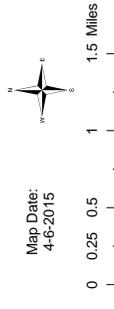
Updated Zoning Law August 2015

<b>Uses</b>	<b>H</b>  <b>Hamlet (Copake, Copake Falls, North Copake, Craryville)</b>	<b>HB</b>  <b>Hamlet Business</b>
Theater, concert hall	-	<b>X</b>
Vehicle Fueling station	X	X
Veterinary, animal hospital, kennel	-	-
Wholesale business or service	-	-
<b>Industrial Uses</b>		
Extractive operations and soil mining	-	-
Fuel storage and distribution	-	-
Light Industry	-	<b>X</b>
Manufacturing	-	<b>X</b>
Power plant	-	-
Research laboratory, manufacture, assembly, fabrication, storage and handling	-	<b>X</b>
Storage of construction equipment	-	-

# Town of Copake Columbia County, NY

## Conceptual Zoning Districts Version 7 4-6-2015

-  Property Boundaries
-  Railroads (abandoned)
-  Water
-  Streams
- Zoning Draft District Changes - v7**
-  RU - Agriculture and Rural Residential
-  H - Hamlet
-  HB - Hamlet Business
-  CL - Copake Lake
-  TS - Taconic Shores
-  CRS - Chrysler Rhoda Snyder Pond
-  HWB - Highway Business
-  RE - Resort
-  MU-INST - Mixed Use - Institutional
-  SCOZ - Scenic Overlay Zone




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