

# Zoning Code of the Town of Copake

*Effective July 15, 2018*

(Also included are amendments to Chapter 197 of  
the Code of the Town of Copake “Subdivision of Land”)

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# Chapter 232. Zoning.

## 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 Article 16 of the Town Law of the State of New York and the New York Municipal Home Rule Law, 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.
  - (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.

## 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 limited liability company 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 terms "Zoning Law," "Zoning Code," and "this chapter," include and incorporate, as may be applicable, Chapter 197 of the Code of the Town of Copake "Subdivision of Land"

and Chapter 230 of the Code of the Town of Copake “Telecommunications Facilities and Towers.”

### **§ 232-3. Definitions.**

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

**ACCESSORY BUILDING OR STRUCTURE** – A building or structure 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.

**ACCESSORY DWELLING UNIT** – One or more rooms with living and sleeping facilities arranged for the use of one family or household, contained within a one-family dwelling or a building or structure accessory to a primary one-family dwelling, containing cooking and sanitary facilities separate from those of the primary dwelling unit, which shall not be less than 500 square feet and shall have a minimum of 70 square feet of habitable area, excluding kitchens, bathrooms, hallways, and common rooms and areas, provided for sleeping accommodations for each occupant. The total square footage of the accessory dwelling unit shall be no larger than two-thirds the total square footage of the principal dwelling unit, and the primary and accessory units shall be subject, in aggregate 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, 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 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.

**AGRICULTURE, AGRICULTURAL USE** – The production, keeping, or maintenance, for commercial purposes or personal use, of plants and animals including but not limited to fruits, vegetables, forages, grains and seed crops, flowers and decorative plants, trees and shrubs, dairy animals, poultry, livestock including beef cattle, sheep, swine, horses, ponies, mules, goats, and fur animals, including the breeding and raising of these animals, bees and apiary products, fish farming, fish hatcheries, nurseries and greenhouses.

**AGRICULTURAL DATA STATEMENT** – A written statement required in connection with certain land use determinations relating to lands within a New York State Agricultural District, or within five hundred (500) feet of a farm operation located within a New York State

Agricultural District, pursuant to section 305-b of the New York State Agriculture and Markets Law.

**AGRICULTURAL DISTRICT** – The portion of the Town of Copake that is included in a New York State Certified Agricultural District, established pursuant to Article 25-aa of the New York State Agriculture and Markets Law.

**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 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, seed or fertilizer sales, and agricultural products processing. A slaughterhouse or tannery shall not be considered an agricultural-related business.

**AGRICULTURAL PRODUCTS PROCESSING** – A facility where plants or plant products, or animals or animal products, are processed into canned, frozen, dried, or fresh food products. A slaughterhouse or 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, fruits or vegetables, horticultural or other products of agriculture, and used in connection with the raising, growing or storage of agricultural products as part of a farm operation, as such term is defined in section three hundred one of the New York State Agriculture and Markets Law. An agricultural structure includes, but is not limited to, barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes. Such structure shall not be a place of human habitation.

**AGRI-TOURISM** – Activities, including the production of farm products and maple products, 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. This may include farm stays, subject to all other provisions of this Zoning Code.

**AIRPORT** – A place where aircraft can land and take off, arranged and maintained for such purpose, whether or not equipped with hangers, facilities for refueling and repair, or accommodations for passengers.

**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 prepared by a licensed engineer and approved by Columbia County Board of Health that meets or exceeds the minimum standards of the Columbia County Board of Health requirements.

**APARTMENT** - A single-family dwelling unit in a multifamily dwelling or mixed-use building.

**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. An applicant is required to be the owner, or to produce written authorization from the owner, of the parcel to which the subject application pertains.

**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 of an assisted living facility must be capable of responding to an emergency situation, including evacuating the facility, without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, halfway houses, group facilities, 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.

**BAR** - An establishment in which alcoholic beverages are served, primarily by the drink, and where food shall also be served or sold for on-premises consumption.

**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.

**BASIC CONSERVATION** - A lot that provides for basic Department of Health standards for conventional septic systems and private wells.

**BED AND BREAKFAST** - Owner-occupied residential building configured as a one-family dwelling, which also provides overnight accommodations, and serves only breakfast as a meal,

to not more than ten transient lodgers, containing at least three but not more than five bedrooms for such lodgers.

**BEST SITE DESIGN STANDARDS** - Site improvements which help ensure the protection of natural resources in the Town of Copake, particularly related to water quality, in accordance with the specifications set out in this chapter.

**BILLBOARD** - See "sign."

**BOARDINGHOUSE** - A building arranged or used for permanent or transient lodging for compensation, in which individual sleeping rooms or beds may be rented, with or without meals, containing up to six sleeping rooms and for not more than ten occupants, 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, ATTACHED** – A building directly abutting and connected to another building on both sides.

**BUILDING, DETACHED** - A building surrounded by open space on the same lot.

**BUILDING ENVELOPE** - The three dimensional space on a zoning lot within which a structure may permissibly be constructed or located, as permitted by applicable height, yard setback controls, and lot coverage percentages.

**BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM (“BIPV”)** - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing material, and shading over windows. Solar energy systems constructed over a parking lot are considered building integrated systems. Exterior or roof-mounted solar panels or collectors shall not be deemed to be part of, or included within, a Building Integrated Photovoltaic System.

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

**BUILDING, SEMI-DETACHED** - A building directly abutting and connected to another building on one side.

**BUS SHELTER/STOP** - A small, roofed structure, usually having three walls and designed primarily for the protection and convenience of bus passengers.

**CAMP** - Any parcel or tract of land including buildings or other structures, under the control of any person, where five or more cabins, campsites or other seasonal lodging units are provided to guests for temporary or seasonal occupancy, whether or not for compensation, employing counselors or personnel for the oversight of guests, and where guests ordinarily participate in group activities and meals. Seasonal is to be defined as six months, subject to obtaining an area variance from the Zoning Board of Appeals..

**CAMPGROUND** - 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 obtaining an area variance from the Zoning Board of Appeals..

**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.

**CELLAR** - Any space in a building the structural ceiling level of which is less than four feet above average finished 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.

**CHANGE OF USE** - The use or occupancy of land, or buildings, structures, or other improvements on land, which results in a qualitative change from the previous use, or where the essential character of the previous use is changed, or where the previous use is substantially changed shall constitute a change of use. Any change from one use identified in the Table of Uses to another such use constitutes a change of use. Any change from a use categorized in the Table of Uses as residential, general, commercial, or industrial to a use differently categorized constitutes a change of use. A mere increase in the volume or intensity of use, without a significant change in the kind of use, shall not constitute a change of use, unless the increase is so substantial as to render the increased use different in kind or character from the previous use, or the increased volume or intensity is coupled with a variation or alteration in the specific type of use or manner in which the use is conducted. Change of occupancy or change of ownership shall not be construed as a change of use.

**CEMETERY** - Property used for the interment of the dead.

**CHIMNEY or STACK** - Flue or flues that carry off exhaust from a fireplace, furnace, stove, Outdoor Wood Boiler firebox or burn chamber, or other similar source of combustion.

**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.

**COMMERCIAL** - Any business, industrial, or general use in which acts are done, or services or goods are provided, for compensation.

**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.

**COMPREHENSIVE PLAN** - The Comprehensive Plan of the Town of Copake adopted and amended 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, not to exceed four thousand square feet gross floor area, 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.

**COUNTRY CLUB** - A facility consisting primarily of lands for outdoor recreation including golf, tennis, swimming, and similar non-disruptive recreational activities, which may also include a clubhouse, dressing rooms, restaurant, and indoor facilities for recreational activities, banquets or similar events. A country club shall not include a firearms shooting range or motorized vehicular racing or recreation, except the use of carts incidental to golf, or otherwise generate noise perceptible beyond the boundaries of the parcel.

**CULTURAL FACILITY** – A facility or establishment for the documentation, preservation or presentation of artistic, cultural, historical, intellectual or natural phenomena, manifestations, or works, including museums, art galleries, botanical and zoological gardens, theaters, concert halls, or other locations or venues for the presentation of matters of natural, historic, educational, artistic or cultural interest.

**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.

**DECOMMISSIONING PLAN** - Detailed steps to remove unused or inactive utility-scale solar energy systems, the elimination of all safety hazards, the remediation of the site, and cost estimates to accomplish these requirements.

**DENSITY BONUS** - An increase in the allowable density of a subdivision granted in return for public benefits desired by the town.

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, other than repair and maintenance, 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.

**DISTILLERY** – See BREWERY/DISTILLERY/WINERY

**DORMITORY** - A building, other than a hotel or motel, containing dwelling units or rooms for the housing of non-transient 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 property for commercial, industrial or other nonresidential uses.

**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 dwelling unit 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.

**ENHANCED CONSERVATION** - A lot that provides for an alternative septic system and best site design practices, in accordance with the specifications set out in this chapter.

**EPA** – The United States Environmental Protection Agency.

**EROSION** - The wearing of surface soils by action of wind or water.

**ESSENTIAL LIGHTING** – Light that is used for a specific period of time, which is necessary for location identification, safety, security, or public circulations purposes.

**EXCAVATION** - Removal, relocation, or reconfiguration of more than twenty (20) cubic yards of earth materials

**EXCAVATION FOR DEVELOPMENT** – Removal, relocation, or reconfiguration of earth materials for the purpose of development, grading, or landscaping, to the extent necessary for such purposes, but not for the purpose of commercial sale or use of such earth materials or products derived from such earth materials.

**EXTRACTIVE OPERATION** - The excavation or extraction of not more 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 any amount of a mineral (s) that is removed in or adjacent to any body of water not subject to NYSDEC permitting authority. Such bodies of water are referred to as “unprotected waters” under Protection Waters legislation (Article 15 of the Environmental Conservation Law) or the Public Lands Law.

**FAMILY** - One or more persons living and cooking together as a single housekeeping unit.

**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 where one or more farmers or vendors can sell agricultural produce to the public on a permanent basis, whether seasonal or year-round, or such a location or structure in which the area used for such activities exceeds 400 square feet, regardless of the duration or time period of such activities.

**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 STAY** - Any type of accommodation on a working farm which may be interactive and offer opportunities to feed animals, collect eggs and learn how a farm functions.

**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.

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

**FLEXIBLE LOT SUBDIVISION** - A residential subdivision, in conformity with the applicable provisions of this chapter and Chapter 197 of the Code of the Town of Copake, 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 dimensional requirements or limitations 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.

**FLOOD AREA OVERLAY ZONE OR FAO** - Areas that are subject to periodic inundation as identified or described by the Flood Insurance Rate Map of the Town of Copake prepared and as may be updated 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.

**FLOOR AREA, GROSS** - The aggregate square footage of all floors of a structure, excluding attics and basements.

**FOOTPRINT, BUILDING OR STRUCTURE** - The area within a building or structure perimeter, as measured and located upon a horizontal plane at grade level.

**FLYING FIELD** - An area of land used for the purpose of aircraft landing and take-off.

**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.

**FULL CUTOFF (FCO)** – A classification for a luminaire designed and installed such that no light is emitted at or above a horizontal plane running through the lowest point on the luminaire. In addition, the luminous intensity (as measured in candelas) emitted at any angle from 80 degrees up to 90 degrees cannot exceed a numerical value equal to 10 percent of the lumen rating of the lamp, as reported in a photometric report from the manufacturer. A cutoff or semi-cutoff design allows a restricted amount of light to be emitted above the horizontal and a non-cutoff provides no restriction against light emitted above the horizontal.

**FULLY SHIELDED** – A luminaire constructed and installed in such a manner that all light emitted by it, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal. It is the same as a full cutoff luminaire but without any restriction on light distribution below the horizontal plane, and it can be identified without a manufacturer's report.

**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.

**GLARE** – Unshielded direct light from a light source that results in light shining in the eyes in such a manner as to impair the ability to see other objects.

**GOLF COURSE** - Land improved with tees, greens, fairways, and hazards for playing the game of golf, consisting of not fewer than nine holes for play. Accessory structures and buildings may be associated with such use including a clubhouse, locker room, food stand, restaurant, banquet or conference rooms, except that overnight accommodations are not permitted.

**GOLF DRIVING RANGE** - Land arranged for the limited activity of hitting or driving golf balls within a designated area, but not designed or used for the full play of the game of golf, including accessory structures incidental to such use.

**GOLF, MINIATURE** - Recreational facility consisting of natural or artificial putting greens and hazards in which activity is limited to putting golf balls, and which may include accessory structures incidental to such use.

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

**GROUND-MOUNTED SOLAR ENERGY SYSTEM** - A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, for the primary purpose of producing electricity for onsite consumption.

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

**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 average grade plane to the height of the highest roof surface.

**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 within a dwelling unit or accessory structure by a permanent resident of such dwelling unit, which is clearly secondary to the residential use of the dwelling and does not change the residential character of the dwelling unit or vicinity. Such use shall not employ more than three additional people on site or have any exterior evidence of such secondary use other than a sign, but may allow customers, clients or sales representatives to enter the premises. A Major Home Occupation, if in conformity with the foregoing, may include storage of vehicles or equipment on the residential property. A home based day-care operation caring for not more than five (5) people and in compliance with the other provisions of this definition may be a major home occupation. A contractor's yard shall not be considered a major home occupation.

**HOME OCCUPATION, MINOR** - Any nonresidential use, including a business activity, conducted within a dwelling unit or accessory structure by a permanent resident of such dwelling unit, which is clearly secondary to the residential use of the dwelling and does not change the residential character of the dwelling unit or vicinity. Such use shall not employ more than one additional person on site, shall not involve storage of vehicles or equipment or outdoor storage of materials or have any exterior evidence of such secondary use other than a small door or lawn plaque, and shall involve few customers or clients entering the premises. A minor home occupation may produce only household quantities and types of waste and shall not involve an amount of delivery truck visits significantly in excess of that associated with ordinary residential use. 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.

**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 definition 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 medical care of humans, including the diagnosis, treatment or other care of human injuries, illnesses and ailments, or maternity care, by persons licensed by the State of New York to provide such medical care.

**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, recreational facilities and other guest services.

**HYDROGEOLOGIC SENSITIVITY** - 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.

**ILLUMINANCE** – The intensity or amount of light falling at a given place on a lighted surface, expressed in lumens per square meter and footcandles per square foot.

**IMPERVIOUS SURFACE** - Any man-made material or material put in place by intentional human activity that does not allow precipitation and melted snow to penetrate into the soil.

**JUNK YARD** - An area of land, with or without buildings, which is used for the deposit, keeping, storage or holding of wrecked, junked, discarded, 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 disposing of the same, reclamation or resale of used parts therefrom, or for 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, DIRECT** – Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**LIGHT, INDIRECT** – Direct light that has been reflected or has scattered off of surfaces other than those associated with the light fixture.

**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 that (1) all

operations are conducted entirely within an enclosed building, (2) it does not emit smoke, noise, odor, glare or vibration beyond the property boundaries, (3) it is compatible with the Town of Copake's Comprehensive Plan, (4) it does not produce high volumes of polluting wastes; and (5) the operation does not require heavy, noisy, or otherwise objectionable machinery or transporting equipment. Light Industry does not include, among other things, commercial incineration of waste. If operated in conformity with the foregoing, Light Industry uses may include, but are not limited to:

- (a) Production of 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.

**LIGHT POLLUTION** – Stray or reflected light that is emitted into the atmosphere above the 90 degree horizontal plane from the luminaire, or which can or does cause sky glow.

**LIGHT TRESPASS** – Direct light from an artificial light source on one property that is intruding into an area where it is not wanted or does not belong.

**LIGHTING, NONESSENTIAL EXTERIOR** – Lighting which is unnecessary for pedestrian passage and not generally useful (e.g., decorative and landscape lighting). This includes lighting intended for a specific task or purpose when said task or purpose is not being actively performed (e.g., parking lot illumination and wall-mounted perimeter lights after business hours).

**LIGHTING, OUTDOOR** – The nighttime illumination of an outside area or object by any manufactured device located outdoors that produces light by any means.

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

**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** - The square footage 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** - A lot that conforms to the requirements for the district in which it is located, except that does not meet the requirement for road frontage and is characterized by a narrow strip of property by which access is gained. Such lot is shaped like a pole with a fully extended flag at the upper portion thereof, the bottom of the pole being at the street line and the "pole" portion of the lot providing access to the "flag" portion of the lot where the principal structure is or will be constructed, provided, however, that neither the "flag" portion nor the "pole" portion is required to be rectangular..

**LOT FRONTAGE** - A lot line which is coincident with a street line.

**LOT LINES** - The lines bounding a lot, as defined herein.

**LOT LINES, INTERNAL** - The lot lines of the "flag" portion of a flag lot.

**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 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.

**LUMINAIRE** – A complete lighting system, including a light source component (lamp or lamps that produce the actual light) and a fixture.

**MAINTENANCE** - See REPAIR and MAINTENANCE.

**MAJOR SUBDIVISION** - A "Major Subdivision" as defined in section 197-2 of Chapter 197 of the Code of the Town of Copake, "Subdivision of Land."

**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 structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include a “mobile home” as defined herein, and shall include a structure which meets all the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development.

**MEDICAL FACILITY** - A facility or institution, whether public or private, principally engaged in providing outpatient services for health maintenance and the treatment of mental or physical issues and which does not provide overnight accommodations for patients.

**MINOR SUBDIVISION** - A “Minor Subdivision” as defined in section 197-2 of Chapter 197 of the Code of the Town of Copake, “Subdivision of Land.”

**MOBILE HOME** - Manufactured homes built prior to the adoption of the 1978 HUD Code A moveable or portable unit, manufactured prior to January first, nineteen hundred seventy-six, designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. “Mobile home” shall mean units designed to be used exclusively for residential purposes, excluding travel trailers..

**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 factory 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, 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.

**NATURAL GAS** - Methane or any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons. [Added 10-9-2014 by L.L. No. 6-2014]

**NATURAL GAS EXPLORATION ACTIVITIES** - Geologic or geophysical activities related to the search for natural gas, petroleum, or other subsurface hydrocarbons, including prospecting, seismic surveying and sampling, which involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits. [Added 10-9-2014 by L.L. No. 6-2014]

**NATURAL GAS EXPLORATION OR PRODUCTION WASTE** - Any waste or refuse, including drilling fluids, brines, produced waters, flowback, production or processing wastes, drilling treatment wastes, radioactive materials, chemicals and chemical solutions, waste oil, sediment, sludge, soil, drill cuttings, or any other waste associated with the exploration, drilling, extraction, production, processing, or treatment of natural gas or petroleum, which is produced, generated, extracted, used, or intended to be used in the course of natural gas exploration or extraction activities. [Added 10-9-2014 by L.L. No. 6-2014]

**NATURAL GAS EXTRACTION ACTIVITIES** - The digging or drilling of a well or other boring, penetration or excavation, for the purposes of exploring for, developing, extracting, or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing related to the exploration for, or extraction of, such substances, or the storage or preparation of fluids, oils, chemicals, equipment, or other materials for the purpose of use in connection with such activities. [Added 10-9-2014 by L.L. No. 6-2014]

**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 or part of a structure used by one or more members of a government entity or recognized professional occupation and associated staff, maintained for the conduct of professional operations, including the service or treatment of clients, and furnished with desks, tables, files, communication and other office equipment or equipment integral to the professional practice, and 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 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.

**PARKING LOT, COMMERCIAL** - Any lot or portion thereof designed or used for the purpose of commercial parking.

**PIPELINE** - All parts of those physical facilities, including gathering lines, production lines, and transmission lines, and pipes, lines, valves and other equipment and appurtenances attached thereto, through which gas, petroleum, hazardous liquids, or chemicals move in transportation in connection with the extraction or processing of natural gas, petroleum, or other hydrocarbons, except for the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas for consumer end-use to residents or buildings located in the Town of Copake. [Added 10-9-2014 by L.L. No. 6-2014]

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

**POSTER** - A temporary, nonpermanent device consisting of static, non-illuminated print or design on paper, cardboard, plastic, laminate, board, or similar medium, not to exceed eight (8) square feet in size. A free-standing poster may be two-sided.

**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.

**POWER PLANT** - A facility that is designed to generate electricity for off-site use, other than a solar or wind facility permitted and operating in accordance with the provisions of this chapter.

**PRE-EXISTING OUTDOOR WOOD BOILER** - An Outdoor Wood Boiler that was purchased and installed prior to December 31, 2010.

**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.

**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 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 BUSINESS** - 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, gym, skating rink, dance hall or pool hall. A recreational business shall not generate noise perceptible beyond the boundaries of the parcel on which it is located.

**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.

**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.

**REGULATION** - Any applicable law, ordinance, regulation or rule adopted by any municipal, county, State, or Federal authority with jurisdiction in the referenced or relevant matter or matters.

**REPAIR and MAINTENANCE** - Work on an existing and permitted structure or other development, which is intended solely to prevent or remediate deterioration or degradation of such structure or development, and which does not expand or change the existing structure beyond restoring such structure to its most recent pre-existing configuration, does not substantially change the appearance from its most recent pre-existing appearance, and does not involve substantial replacement or rebuilding of any structural parts or components. Notwithstanding the above, painting shall be deemed to be maintenance.

**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. For purposes of this chapter, occupancy of a dwelling unit for more than thirty consecutive days shall be presumed to constitute residential use. However, "residence" or "residential" use shall not include the following:

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

**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. Such hotel may be in the form of condominium ownership.

**RESTAURANT** - An establishment where food and beverages are prepared, served and consumed, mostly within the principal building.

**RETAIL STORE** - A business establishment which sells goods and merchandise, including groceries, to consumers or other businesses at retail prices. A Retail Store does not include an establishment that sells gasoline or similar vehicular fuels, or road-capable motor vehicles.

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

**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, whether full-time or part-time, 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 or arts 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 continuing care communities and retirement communities.

**SEPTIC SYSTEM** - An underground or other 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).

**SERVICE BUSINESS OR SERVICE ESTABLISHMENT** - A business rendering a service only, such as a barbershop, repair shop, etc.

**SETBACK** - The distance in feet from any property line to any structure or accessory use on a lot. Where a property line is within a right-of-way of a public or private road or sidewalk, the required setback shall be measured from the near edge of the roadway.

**SHED** - An accessory structure or building up to 192 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 a temporary poster of no more than eight square feet in size.

**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.

**SKY GLOW** – Brightness of the night sky as a result of artificial light which is emitted upward by luminaires.

**SMALL-SCALE SOLAR ENERGY SYSTEM** - Any solar energy system that cumulatively on a lot meets all of the following provisions:

- (a) Is an accessory use or structure, designed and intended to generate energy primarily for a principal use, located on that lot.
- (b) Produces up to ten kilowatts (kW) of energy, or is a solar-thermal system which serves the building to which it is attached and does not provide energy for any other buildings beyond the lot.
- (c) Notwithstanding the above, a solar energy system located on a farm operation, as defined in §301(11) or the relevant provision of the New York State Agriculture and Markets Law, and located in a New York State Agricultural District, which primarily serves the needs of such farm operation and produces up to 110% of the farm's needs, or other amount that may be established by resolution of the Copake Town Board in accordance with New York State Department of Agriculture and Markets guidance, shall be deemed a Small-Scale Solar Energy System.
- (d) A system that does not exceed the production or output limits and otherwise conforms to the requirements of this paragraph shall not be excluded from designation as a Small-Scale Solar Energy System as a result of selling or otherwise receiving credits or benefits for excess energy provided to the distribution grid.

**SOLAR COLLECTOR** - A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other usable energy.

**SOLAR ENERGY SYSTEM** - A system of components intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/ or other accessory

buildings, inverters, fans, combiner boxes, meters, transformers, and all other mechanical structures.

**SOLAR PANEL** - A photovoltaic device for the direct conversion of solar energy into electrical energy.

**SOLAR-THERMAL SYSTEM** - A system that directly heats water or other liquid using sunlight.

**SPECIAL USE PERMIT** - An authorization, in accordance with and pursuant to section 274-b on the New York State Town Law and this chapter, of a particular land use which is permitted 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.

**STABLE, PUBLIC AND RIDING ACADEMY** - A use or building or structure where horses are boarded or riding lessons, training or instruction is given for compensation. A public stable may also include a commercial horse boarding operation as that term is defined in the Agriculture and Markets Law, §301.

**STEEP SLOPE** - Land areas where the slope exceeds fifteen percent (15%).

**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 for storing of goods, wares, and merchandise for the particular commercial establishment for which it is associated.

**STORAGE, OUTDOOR** - 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.

**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.

**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.

**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** - Allowed, existing, carried on, or constructed to last for a limited period of time, or which is susceptible to simple and expedient dismantling, removal, or discontinuance. The duration of a temporary period may be determined by express provision of law or by reference to context and common and ordinary practice.

**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.

**TOURIST HOUSE** - A building arranged for single-family occupancy containing up to six sleeping rooms, used, offered, or made available for transient lodging for not more than ten occupants, for compensation, for more than ninety-two (92) days in a calendar year, and not concurrently occupied as a residence.

**TRANSIENT** - Occupancy, or the right to occupancy, of not more than thirty days.

**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. 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 on July 15, 2018, 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.

**USE TABLE, TABLE OF USES** – The Table of Use Regulations included in this chapter in accordance with section 232-7.

**UTILITY-SCALE SOLAR ENERGY SYSTEM** - Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar-thermal devices or various experimental solar technologies, designed and intended to supply energy primarily into a utility grid for sale to the general public or to supply multiple users located off the site on which the energy system is located.

**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.

**VEHICLE FUELING STATION** - An area of land, including structures thereon, that is used primarily for the sale and direct delivery of gasoline, oil and other lubrication substances for a motor vehicle, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating and washing.

**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

**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.

**WATER BODY** - Any natural or man-made body of water, such as a pond, lake, stream, wetland, or wet area which does not necessarily flow in a definite direction or course.

**WATER COURSE** - A permanent or intermittent channel or stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERSHED** - The area which is a drainage basin for a particular freshwater body.

**WETLAND** - Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation.

**WHOLESALE BUSINESS** - A business or service primarily consisting of multi-unit transactions with other commercial entities and 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 POWER FACILITY, 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 (NCWT)** - When not used in connection with farm operation, an NCWT 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 NCWT 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.

WINERY – See BREWERY/DISTILLERY/WINERY

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 an Outdoor Wood Boiler. 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.

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 - The officially adopted Zoning Law of the Town of Copake contained within the Code of the Town of Copake, including Chapter 232 entitled “Zoning,” Chapter 197 entitled “Subdivision of Land,” and Chapter 230 entitled “Telecommunications Facilities and Towers,” 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	Mixed Use
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, agri- businesses, low density residential uses, home occupations and other low intensity uses.

**CL- Copake Lake:** To improve lake water quality through appropriate regulation within its watershed 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 through appropriate regulation within its watershed while recognizing the small lot, high density character of the shore development. An additional purpose is to allow residential uses and minor home occupations.

**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– Mixed Use: This district is designed to promote a mix of uses of moderate to large scale including businesses, offices, cultural venues, hotels, resorts hotels, resort lodges, resort ranches, and outdoor recreation.

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 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.

- A. 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. Such Table of Use Regulations is hereby adopted and declared to be a part of this chapter and is appended to this chapter as “Table 2. Table of Use Regulations.” A use that is not listed in the Table of Use Regulations is prohibited.
- B. 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. No such permit may be issued unless the proposed development is permitted by this chapter or any required variance, special use permit, or site plan approval has been approved by the applicable board and the proposed development is thereby rendered permissible. Upon determination that any building permit has been issued in violation of this subdivision, such permit shall be subject to immediate revocation.

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

- A. Density control schedule. No building shall be constructed, expanded, or altered, and no lot subdivided or altered, except in conformity with the density control regulations as set out in the Density Control Schedule, which is hereby adopted and declared to be a part of this chapter and appended to this chapter as “Table 1. Density Control Schedule.”

**B. Corner lots.** Wherever a side of a corner lot 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.

**C. Projections into required yards from structures; front yards.**

(1) The following projections into required yards may be permitted without the need to obtain an area variance:

(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, carport or garage, whether or not attached to the principal structure, shall conform to setback requirements and be considered a part of the building in the determination of 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, including a detached garage, shall not be located in front yards and, except for a shed in compliance with section 232-11(H) of this chapter, shall conform to the side and rear yard setback requirements of the zoning district in which the lot is located. An accessory building shall not block any window or door of the principal structure.

**D. Height exceptions.**

(1) District building height regulations shall not apply to flagpoles, radio or television antennas, transmission towers or cables, spires, 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.

(2) Notwithstanding any provision of this chapter to the contrary, 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.

**E. 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 set out in the density schedule

requirement shall be applicable per structure and must be complied with. See section 232-8(A).

- (2) A residential lot of required or larger than required size as set forth in this chapter shall not be reduced in size if such subdivision 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 § 232-20(C)(2).
- F.** Side yards for semidetached and attached dwellings. Side yards for semidetached and attached dwellings shall apply only to that side of the building which is not attached to another dwelling.
- G.** 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.
- H.** 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 provides for adequate access and will not adversely affect traffic safety, and is not expected to adversely affect the development of the remainder of the subject parcel or adjoining properties, subject to the following conditions:
- (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.
  - (f) For reasons of safety, compliance with driveway specifications, or conformity with the purposes of this Chapter, 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.
  - (g) 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.
- (4) Incident to approving a flag lot, the Planning Board may impose conditions determined to be necessary or desirable in order to promote traffic safety and adequate access.

**I. Rear lots.**

- (1) Up to four rear lots may be created in the RU District in any single subdivision, provided that the Planning Board determines that such lots will not endanger public health and safety.
- (2) The following requirements apply to rear lots:
  - (a) A rear lot must have a legally adequate and physically practical access to a public or private road, which may be achieved by means of a deeded right-of-way easement or other means satisfactory to the Planning Board and approved by the Town Attorney. The minimum width for this right-of-way for access shall be 50 feet along its entire length.
  - (b) No more than four lots may be served by a single common driveway. Adjoining access ways to individual lots must share one common developed driveway, and access easements must be provided over the common driveway in favor of each lot being accessed by the same.
  - (c) The driveway or right-of-way must provide safe access for fire, police and emergency vehicles.
  - (d) 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.

- (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) Rear lots must meet all requirements other than road frontage for a lot in the applicable zoning district.

**J.** No commercial building with a building footprint in excess of 20,000 square feet is allowed in Zoning Districts H and HB.

### **§ 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 Overlay Zone 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 of the Code of the Town of Copake, “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 or actions 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 Chapter 197 of the Code of the Town of Copake, “Subdivision of Land.”
  - (2) All use or development of land that requires site plan approval pursuant to § 232-21 of the Town Code.
  - (3) All uses or development of land 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. New or expanding mine extractive operations 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 operations 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 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 operations 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) Utility-scale solar energy systems.
- (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 and actions.** The following uses and actions 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 7,500 square feet in area. Any agricultural buildings or structures 7,500 square feet or more shall be permitted subject to Section 232-21(H)(4) 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 Chapter 197 of the Code of the Town of Copake, "Subdivision of Land."

- 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.
- G. 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.
- H. 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.
- I. Restrictions on height.** No principal or accessory structure with a building height of greater than 35 feet shall be constructed within the SCOZ.
- J. 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:

  - (1) 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.

- (2) 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.
- (3) 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.
- (4) Tree cutting shall be subject to the following:
  - (a) 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.
  - (a) 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.
  - (b) This subsection shall not apply to:
    - [1] Christmas and landscaping tree culture or other existing tree plantation.
    - [2] Harvests conducted in accordance with a timber harvesting plan prepared pursuant to § 480-a of the New York State Real Property Tax Law.
    - [3] Tree clearing for farm purposes within Agricultural Districts established pursuant to the New York State Agriculture and Markets Law.
    - [4] Severe natural disturbances, which include fire, insect infestation, disease, ice and wind.
    - [5] 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.
    - [6] 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.

**K.** 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.

**L. Lighting.**

Exterior lighting in the SCOZ is subject to the requirements of section 232-15 of this chapter, except that to the extent this subdivision imposes additional or greater restrictions, such lighting shall also 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 any 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.

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

- (1) Within the SCOZ, flexible lot subdivisions as per § 232-17 of the Town Code shall be required as alternatives to maximum density development.
- (2) Wherever practical, vegetation and topography shall be used to buffer and screen buildings.
- (3) 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.
- (4) 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.
- (5) 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.

- N. 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 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.
- O. Dimensional regulations.** The following dimensional regulations shall apply to development within the SCOZ in addition to the dimensional regulations of the underlying zone district:
- (1) 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.
  - (2) Nonresidential and multifamily residential buildings shall be sited as per Flexible Lot Subdivision requirements 232-17.
  - (3) 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.
  - (4) 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.
  - (5) Maximum building height requirements shall apply to the peak of the roofline. 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.
- P. 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.
- Q. 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 Committee 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.

- R. 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:
  - (1) 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.
  - (2) The reviewing board finds that the proposed project is of a minor nature and is consistent with the design standards set forth herein.
- S. Nonconforming uses. Any use or structure prohibited by, or subject to the design requirements of, this section, which lawfully existed, or for which a building permit has been approved and construction commenced, as of July 15, 2018, shall be permitted to continue as a nonconforming use. However, the provisions of this section shall prohibit, or apply to, as the case may be, 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 as of July 15, 2018 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 July 15, 2018 shall be a prohibited use.

## Article V. Supplementary Regulations

### § 232-11. General provisions.

- A. 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. 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. Notwithstanding the above, no fence or wall shall be erected or constructed within fifty feet of an intersection without obtaining prior authorization of the Building Inspector and Highway Superintendent. Where corner sight

distances are required for traffic safety, permissible heights will be reduced as required by the Town Highway Superintendent and Town Building Inspector.

- B. Sewage systems.** No person shall undertake to construct any new building or structure in the Town, or increase in an existing building or structure the number of bedrooms or rooms that the Building Inspector determines meet the specifications of a bedroom, including the conversion of an existing room, whether or not used as a bedroom, 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, and with the provisions below.
- (1) Wells shall be located at least 100 feet from the closest point of any component of such sewage system.
  - (2) No septic tank or absorption field shall be located closer than 150 feet from a stream, creek, lake, pond, wetland or other body of water.
  - (3) In addition to approvals required in connection with construction of a new building or structure, sewage system approval shall be required when one or more of the following occur:
    - (a) a change in use that would be expected to result in an increase in water usage;
    - (b) total rebuilding of dwelling, building, or structure;
    - (c) the expansion or modification of an existing building or structure, which is served by an existing sewage system, so as to increase the number of bedrooms or rooms that meet the specifications of a bedroom;
    - (d) replacement or repair of a failed sewage or septic system.
  - (4) When a sewage system approval is required, the applicant must, prior to the issuance of a building permit, either:
    - (a) provide plans for a new or modified sewage system, certified by a licensed engineer to be adequate for the structure or building and in conformity with all applicable laws and regulations, subsequent to its expansion or modification, or
    - (b) provide certification by a licensed engineer that establishes the adequacy of the existing system to serve the expanded or modified building or structure.
  - (5) Determinations of adequacy shall treat each room that meets the specifications of a bedroom as if it were a bedroom, whether or not it is intended by the applicant to be used as such.
  - (6) A failed septic system includes replacement of a tank, failed fields, failed soil at laterals such that the soil no longer absorbs effluent, and structural failure of the leaching cylinders.

- (7) For the minor repair of a septic or sewage system, the contractor must provide a document to the Building Inspector detailing the repair.
- (8) If an existing septic or sewage system is being replaced, it must be designed and approved by a licensed engineer or by the Columbia County Board of Health.
- (9) Prior to the construction, renovation or alteration of a structure on a community septic system which would result in an increase in the number of bedrooms or room that could be used as a bedroom, the applicant must provide documentation that the community system allows for and can accommodate such increased use. In addition, in such case, the septic system must meet current Health Department standards.
- (10) Should a residence or structure served by a septic system 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. If the septic system remains, a licensed engineer must certify the system's functionality and adequacy for the structure and use to be served.
- (11) In all cases of an installation or replacement of a sewage system, the owner shall provide the Building Inspector with a copy of the septic system design, certified by a licensed engineer.

C. Electric installation. All new utilities wires and connections shall be put underground whenever possible.

D. Environmental Protection.

- (1) The spreading of manure or fertilizer for residential, commercial or agricultural purposes shall not take place within 100 feet of a stream, creek, lake, pond, wetland, or other body of water.
- (2) No development shall take place within 100 feet of a stream, creek, lake, pond, wetland or other body of water, except that an open porch or deck attached to a residence shall be exempt from such restriction, provided that all other requirements can be met, and provided that such porch or deck shall never be enclosed.

E. 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 subdivision 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% between the street and the front setback line, except that the reviewing board or official may permit increased grades as in subsection E(2) 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 three percent (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 a greater distance from the center of the road or travel way. 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 with the full minimum sight distance in both directions as required herein, such opening may be permitted only upon obtaining approval of the Highway Superintendent. Approval by 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 ninety degrees (90°) as is practicable.
- (7) Except as otherwise provide in this section, 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 Building Inspector.
- (11) Driveways shall be set back at least 10 feet from side lot lines
- (12) 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 opening 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 twenty (20) feet and a minimum width of six (6) feet.
  - (e) Island areas shall be defined by six-inch curb guardrails or other suitable materials and shall have grass or blacktop surfaces.
- (13) Common driveways.
- (a) In addition to the provisions generally applicable to driveways within this subdivision, above, the following shall also apply to common driveways.
  - (b) The maximum number of lots sharing a common driveway shall be four.
  - (c) The minimum width of the right-of-way access for a common driveway shall be 50 feet.
  - (d) 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, approved by the Planning Board, shall be required.
  - (e) 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 served by such common driveway in said subdivision;
    - [2] A declaration that the Town has no responsibility for the maintenance of said driveway; and

[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.

(f) Where more than four lots will be served by a common access way, such access way shall comply with street specifications as set out in Chapter 197 of the Code of the Town of Copake, "Subdivision of Land."

(14) No certificate of occupancy can be issued until a driveway is installed in accordance with the above specifications and is approved by the Town Highway Superintendent and Building Inspector.

**F. Right-of-ways.** When part of a site plan or subdivision review, all newly approved driveway rights-of-way shall meet the following criteria:

(1) A right-of-way shall be designated as a minimum 50 foot 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 of the Code of the Town of Copake, "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 Chapter 197 of the Code of the Town of Copake, "Subdivision of Land."

**G. Sheds.** A single enclosed shed on a lot or parcel shall be exempt from the side and rear yard setback requirements otherwise applicable to an accessory building and shall be permitted with a building permit, provided that such shed conforms to all of the following standards:

(1) The shed may not be closer than 10 feet to any property line and shall not be located in the front yard.

(2) The shed footprint shall be allowed up to 192 square feet in size and no horizontal dimension (neither length nor width) may exceed 16 feet. The height limit shall be 10 feet.

(3) No permanent foundation or concrete slab may be installed.

(4) Storage shall be limited to personal property of the owner or occupant of the premises.

(5) Storage containers designed or intended to be portable or transportable with contents are not permitted under this subdivision.

- (6) No future conversion to a garage or living space or use other than storage shall be permitted, except in conformity with all requirements for new construction of a garage or living space, and subsequent to the issuance of a building permit therefor.

H. Trails and Sidewalks. In considering major subdivisions and site plans for commercial properties, the Planning Board shall promote multi-use trails, sidewalks, and pedestrian linkages where feasible and appropriate. Sidewalks should be encouraged in the hamlet districts. The Planning Board may require paths, trails or sidewalks in other locations and as per major subdivision requirements.

I. Excavation.

- (1) Excavations shall be permitted only for agricultural use, as excavation for development for which a building permit has been obtained, or for extractive operations for which a special use permit has been issued and any and all required mining or other permits from the New York State Department of Environmental Conservation or other entity with legal jurisdiction have been obtained. Such excavation shall not affect natural drainage. All excavations shall meet all NYS DEC stormwater requirements.

- (2) In addition to the above, property owners may move, for filling or leveling, topsoil, sand, stone and gravel on the owners' property, provided said activities meet all of the following conditions:

- (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.

## **§ 232-12. Prohibited acts.**

The following are prohibited in all districts:

- A. A use that customarily violates the provisions of Chapter 160 of the Code of the Town of Copake, "Noise," is prohibited.
- 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 of the Public Health Authorities or the public body controlling such sanitary or sewage disposal system.
- E. Junk Yards.
- F. Airports and Flying Fields. In addition, 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 expressly prohibited.
- G. Natural gas mining and associated uses and activities.
- (1) Prohibition of natural gas exploration or extraction activities. It is an expressly prohibited use in all districts and throughout the Town of Copake to conduct any natural gas exploration or extraction activities, or to place any machinery or equipment or to erect any derrick, building, or other structure for any such purposes.
  - (2) Prohibition against the storage, treatment and disposal of natural gas exploration or production wastes. It is an expressly prohibited use in all districts and throughout the Town of Copake to receive, store, transfer, process, treat or dispose of natural gas exploration or production wastes.
  - (3) Prohibition against natural gas pipelines. It is an expressly prohibited use in all districts and throughout the Town of Copake to install, construct, place, or use any pipeline in connection with the exploration, production, or transport of natural gas, whether above, below, or upon the surface of the land or any water body.
  - (4) Natural gas activities not to be construed as other uses. Extractive operations and soil mining, fuel storage and distribution, or public utility structures and buildings, as defined in section 232-3 of this chapter, do not include, and shall not be construed to include, any use or activity constituting natural gas exploration activities or natural gas extraction activities, and no use or activity constituting natural gas exploration activities, natural gas extraction activities, or storage, treatment and disposal of natural gas exploration or production wastes, shall be permitted, whether as of right or subject to a special use permit, under any other definition or use identified or listed in section 232-3 or in the Table of Use Regulations of this Chapter.
  - (5) No application to agriculture, water supply, customary local storage, transport, and distribution for local end use. The prohibitions set forth in this subdivision are not intended, and shall not be construed, to (1) prevent or prohibit the right to use roadways in commerce or travel; (2) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents or buildings located in the Town of Copake; (3) prevent or prohibit the incidental or normal sale, storage, delivery or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, propane, or other hydrocarbon or other

products in connection with lawful agricultural, residential, business, and other uses within the Town; (4) prevent any activity or use for the purposes of extracting, obtaining, or delivering water for ordinary residential, commercial, industrial, emergency response, or agricultural consumption or use; or (5) prohibit or impair any bona fide agricultural activity or use.

(6) Penalties for violation.

- (a) In addition to the criminal penalties, fines and other remedies set forth in New York State Town Law section 268 and in this chapter, any person violating any of the provisions of subdivision G of section 232-12 of this chapter (prohibition of natural gas mining and associated uses and activities) shall be subject to a civil penalty of no less than five hundred dollars (\$500.00) and no more than five thousand dollars (\$5,000.00) per day for such violation, notwithstanding any provision of this chapter to the contrary. Each day's violation shall constitute a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this local law shall be subject to being restrained by injunctive relief.
- (b) The provisions of this subdivision are expressly intended to supersede the penalty provisions of New York State Town Law section 268 to the extent such section may be construed to limit the imposition of civil penalties, as authorized by section ten of the New York State Municipal Home Rule Law. If a penalty provision of this subdivision shall be adjudged by any court of competent jurisdiction to be invalid, then a person convicted of violating any provision of this subdivision shall be subject to the maximum penalties that may be imposed pursuant to sections 268 and 135 of the New York State Town Law or other applicable law.

(7) Conflict with other laws and supersession.

This subdivision shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including provisions in the statutes set forth in the New York State Town Law related to zoning and subdivisions.

H. Extraction of subsurface water for commercial bottling, distribution, or sale.

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

In all districts except the Hamlet Business district, 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. A fractional result shall be rounded up to the next whole number:

- (1) Single Family Dwelling – 2 per dwelling unit;

- (2) Multi-family – 1.5 per dwelling unit plus 0.25 for each additional bedroom;
- (3) Nursing Home, Assisted Living Facility - .5 per dwelling unit;
- (4) General and convenience retail – 2.75 per 1,000 s.f. gross floor area;
- (5) Grocery Store – 6.75 per 1,000 s.f. gross floor area;
- (6) Restaurant, Bar – 15 per 1,000 s.f. gross floor area;
- (7) Offices – 3.8 per 1,000 s.f. gross floor area;
- (8) Schools, day care center - .30 per student;
- (9) Theater or other places of public assembly - .25 per person where not seated, and .3 per seat where seated, based upon capacity;
- (10) Five spaces for each farm stand;
- (11) In addition to the above, 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 the RU, CL, TS, CRS, and H districts, parking spaces may not be located within ten feet of a property line.
- (2) In the HWB, HB, and MU 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 and must be suitably drained.
- 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.
- 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.
- H. Banking of required parking spaces. Upon approval by the Planning Board, initial construction or surfacing of a number of parking spaces less than that required by this section may be permitted, provided that sufficient land area is designated and reserved to enable the subsequent building out of the number of parking spaces required under this section, as needed. Land reserved for future parking use pursuant to this subdivision may be graded and landscaped only, and no permanent structures or other development may be affixed to or constructed upon such land.
- I. Commercial parking lots in the RU, CL, TS, CRS, and H 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.

**§ 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. No sign shall impede sight distances for vehicles.
- C. Signs attached to buildings shall be limited to ten percent (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 subdivision Q below.
- D. One attached and one freestanding sign may be permitted. The height of freestanding signs shall be no more than indicated in subdivision Q 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, including neon lighting, or externally illuminated with fully shielded lights, except that no interior lighted signs are permitted within the SCOZ. Flashing or intermittent systems of any kind, dynamic text or images, or moving animation systems of text or graphics, are not permitted.
- I.** Roof signs, representational signs and signs painted on a building are not allowed. Signs on mansard roofs are not permitted. 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 twenty-five percent (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.** All signs must be kept clean, neatly painted and free of hazards.
- O.** All signs that are part of a project that requires site plan or special use permit approvals shall be reviewed by the reviewing board at the time of project review.
- P.** 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.
- Q.** The size of signs shall be limited as follows. If more than one of the following descriptions applies, the more limiting shall apply:

<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	12	10	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	10
Signs on community poles, per business or establishment	Yes	6	6	8
Real estate signs (sale, rent)	No	6	No	
Posting notice to public (hunting, fishing, etc.)	No	1 1/2	1 1/2	
Signs in SCOZ	Yes	24	12	4

- R.** Any violations of the sign regulations shall be treated the same as any other zoning regulations. See §§ 232-25 and 232-26 of this chapter.
- S.** 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 Code Enforcement Officer shall find that there is immediate danger, the sign may be summarily removed and without notice.
- T.** LED and full screen lighted signage. In addition to complying with the requirements of section 232-15, "Lighting," illuminated signs shall comply with the following:

- (1) Flashing or intermittent systems of any kind, dynamic text or images, or moving animation systems of text or graphics, are not permitted.
- (2) Signs shall revert to 'black screen' in the event of a failure of any kind.

## **§ 232-15. Lighting.**

### **A. Applicability.**

- (1) This section is applicable to lighting associated with any use that is or would be subject to site plan review pursuant to section 232-21(B) of this chapter, regardless of whether or not such use was previously subject to site plan review, and to all major subdivisions.
- (2) Where there is a conflict between this section and State or Federal regulations, the standards of the higher authority shall apply, provided that the more stringent standard shall be applicable unless prohibited by superseding authority.
- (3) New installations. All outdoor lighting installed after July 15, 2018 shall conform to the standards set forth herein. Special regulations govern the lighting of signage. All signs shall comply with the provisions of section 232-14 "Sign Regulations" and of this section.
- (4) Nonconforming outdoor lighting. No replacement or installation of new lighting fixtures or poles shall be permitted unless in conformance with this section. All outdoor lighting fixtures installed prior to July 15, 2018 shall be brought into compliance with the provisions of this section when part of a site plan review or renovation where more than fifty percent (50%) of the existing non-conforming lighting will be changed or replaced.
- (5) Town compliance. All government-owned and operated properties and facilities shall be brought into conformance with the provisions of this section when a luminaire replacement is made or when funding becomes available to undertake a comprehensive lighting replacement program.
- (6) Lighting districts. All street lights owned and maintained by the Town shall be replaced in accordance with (4) above. All lights owned and maintained by a utility company shall be brought into conformance with the provisions of this section when a luminaire or pole replacement is made.

### **B. General requirements for all zoning districts.**

All new, retrofitted, refurbished and/or modified outdoor lighting that is installed in the Town of Copake shall be the minimum necessary, in both numbers of luminaires and

intensity of light, to achieve the intended purpose of the lighting, and shall meet the following standards, as relevant:

- (1) Submission of plans. Projects shall submit all information necessary for the determination by the Building Inspector or Planning Board of compliance with this section. The submission shall contain the following, as required:
  - (a) Plans indicating the location, height, orientation, type of illuminating device, and wattage of each outdoor lighting fixture.
  - (b) Location and use of adjacent properties.
  - (c) Description of the illuminating fixtures, lamps, supports, reflectors, and other devices, including, but not limited to, catalog cut sheets by manufacturers and drawings (including sections where required), glare reduction/control devices, on-off cycle control devices, and mounting devices.
  - (d) Photometric data showing an isolux/iso footcandle plot or lux/footcandle grid that demonstrates intensities and uniformity of light emissions.
  - (e) Statement of the proposed hours and days of the week when the luminaires will be on and when they will be extinguished
  - (f) Additional information that the review authority determines is necessary.
- (2) Lamp or fixture substitution. Should any outdoor lighting fixture or the type of light source therein be changed after approval has been issued, a change request shall be submitted to the appropriate review authority for revised approval.
- (3) All exterior lights and sign illumination shall be designed, located, installed, and directed in such a manner as to:
  - (a) Prevent glare, light trespass or light pollution; and
  - (b) Be shielded and cut off the extent feasible so as to confine the light within the target area.
  - (c) Be so directed or shaded as not to cause glare on nearby residential property nor cause a traffic hazard due to glare or color.
- (4) Outside lighting shall conform to Dark Sky standards adopted from time to time by resolution of the Copake Town Board and on file with the Town of Copake Building Department.
- (5) Time controls. Night lighting, after business hours, shall be limited to that necessary for site security.
- (6) To reduce off-site glare, lighting fixtures for all parking and pedestrian areas shall be:
  - (a) Full cut-off type fixtures, or
  - (b) Fully shielded/recessed fixtures where the lens is recessed or flush with the bottom surface.

- (7) Lighting fixtures for building security or aesthetics and any display purposes shall be:
  - (a) Full cut-off or fully shielded/recessed.
- (8) Where outdoor playing fields or other special outdoor activity areas are to be illuminated, lighting fixtures shall be specified, mounted and aimed so that:
  - (a) The lighting fixture's beams fall within the primary playing area and immediate surroundings, and
  - (b) No direct lighting trespass or light pollution is created.
- (9) The maximum light level of any light fixture must not exceed 0.1 footcandles measured at the property line at any given point for adjacent parcel with residential zoning or residential use. Commercial exception applies where commercial uses are directly adjacent and require similar lighting, such as in areas of shared parking and drive aisles.
- (10) The height of pole-mounted luminaires, except street lights in public rights-of-way, shall be the minimum necessary to provide adequate illumination, but the light source shall not exceed a height of fourteen (14) feet in pedestrian areas and eighteen (18) feet in areas of vehicular use (parking lots and drive aisles), as measured from the bottom of the light source. Luminaires attached to the building shall be limited to the height necessary for illumination of entrances or locations not served by pole lighting. In no case shall a building fixture be mounted on the roof.
- (11) LED lighting shall be 3000 Kelvin or lower to provide good visibility and a warm lighting color.
- (12) Illuminance and uniformity. Parking lots shall have an average lighting level at or below one footcandle. High-security areas shall have lighting levels of no more than five footcandles, and two to five footcandles is the recommended range. Pedestrian walk areas shall have a minimum light level of 0.2 footcandle. Design should establish a hierarchy of lighting to assure a smooth transition from bright areas to those with subdued lighting. Light levels shall be maintained at design levels with lamp or luminaire replacement as needed.
- (13) Exemptions. The following forms of lighting are exempted from the requirements of the lighting regulations set out in this section:
  - (a) Temporary circus, fair, carnival, religious, historic, or civic uses.
  - (b) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating such lighting.
  - (c) Temporary holiday lighting for no more than two months per year.

C. Architectural and landscape lighting.

- (1) All fixtures shall be aimed and/or shielded to illuminate only the target area such that no stray light from the luminaire passes above the horizontal plane.
- (2) Upward aimed façade and building lighting shall be fully shielded and fully confined from projecting into the sky by the building eaves, roofs, overhangs, or structures and shall be mounted as flush with the illuminated wall as possible.

**D. Canopy and service lighting.**

Outdoor sales and gas station service canopy lighting shall be aimed downward and installed such that the center of the fixture's luminous opening is flush with or recessed into the canopy ceiling. All lighting from the canopy must be substantially confined to the ground area beneath the perimeter of the canopy. All exterior lighting for canopies and/or service areas shall be of an indirect nature, emanating only from fixtures located under canopies, under eaves on the principal building or at ground level in the landscaping. Exterior lighting shall be arranged and shielded so there shall be no glare or reflections onto adjacent properties or street rights-of-way.

**E. Residential subdivision pedestrian areas.**

All roads built as part of a major subdivision shall have pedestrian lighting where sidewalks are located. Lighting shall meet the above general requirements of this section, and shielding shall be provided to eliminate night trespass on adjacent homes and yards. Lighting levels for pedestrian walks shall have a minimum lighting level of 0.2 footcandle.

**F. Inspections.**

The Zoning Enforcement Officer or Building Inspector may conduct post-installation nighttime inspection to verify compliance with the provisions of this section and may order remedial action, as necessary for compliance.

## Article VI. Regulations for Specific Uses

### **§ 232-16.1. Accessory Dwelling Unit.**

An accessory dwelling unit is permitted in any district in which single-family residences are permitted, or by special use permit, in accordance with the Table of Uses, subject to obtaining site plan approval by the Planning Board and compliance with 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 units must conform to the New York State Uniform Fire Prevention and Building 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.
- D. Accessory dwelling units in an accessory structure must conform to the dimensional requirements of section 232-8 and the Density Control Schedule of this chapter.

**§ 232-16.2. Agricultural uses, Agricultural Products Processing, Public Stables.**

- A. No slaughterhouse facility shall be allowed unless pursuant to Section 232-16.11 (“Slaughterhouse, Poultry or Rabbit Processing Facility”).
- B. 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 232-16.11 or unless said use is a garbage disposal area operated by the Town of Copake or a group of towns including the Town of Copake and/or Columbia County.
- C. 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 232-16.11 (“Slaughterhouse, Poultry or Rabbit Processing Facility”) and no other rendering, fertilizer plants and canneries shall be allowed.
- D. 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.
- E. 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 building code requirements.
- F. 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.
- G. A public stable or riding academy may not be established on a lot smaller than seven acres.
- H. Agricultural Data Statement. 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 for review and notice in accordance with section 305-b of the NYS Agriculture and Markets Law. The cost of mailing said notice shall be borne by the applicant.

- I. 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.

### **§ 232-16.3. 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. Plots shall not be closer than 100' to any water well.

### **§ 232-16.4. 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 protect people and property.

### **§ 232-16.5. Home Occupations.**

- A. Minor home occupations do not need review and approval by the Planning Board but shall be registered with the Zoning Enforcement Officer.
- B. 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:
  - (1) No offensive noise, vibration, dust or odor, heat or glare shall be produced by the home occupation activity.
  - (2) 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.
  - (3) Business operation hours, lighting and signage, shall not adversely affect adjacent properties.
  - (4) Adequate parking must be provided. At a minimum, there shall be two (2) spaces for the residential use, plus one additional space, located to the side or rear of the

residence, for each five hundred (500) square feet of floor space of the home occupation.

- C. Major home occupations in the Hamlet (H) district are also required to obtain a special use permit.

### **§ 232-16.6. Manufactured Homes and Recreational Vehicles (RVs).**

- A. For Farm Use. Up to three manufactured homes may be permitted as an accessory use to a farm, subject to Planning Board Approval, provided that:

- (1) The manufactured home(s) are not occupied by the owner of the farm or are not the principal dwelling on that farm.
- (2) Such manufactured home(s) shall be used only for the housing of a farm worker (and such worker's immediate family) employed full time in agricultural activity on the farm where the manufactured home is located.
- (3) Placement of such manufactured 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 manufactured home(s) are in compliance with the New York State standards.
- (5) The manufactured 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 Zoning Enforcement Officer by the owner of the farm, that the manufactured home(s) is occupied by an employee engaged in full-time agricultural activity on the farm where the manufactured home is located.
  - (a) This annual statement shall be submitted on or before a date specified by the Zoning Enforcement Officer.
  - (b) The Zoning Enforcement Officer will renew or revoke its approval of the manufactured 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 Enforcement Officer determines that the conditions of this section are no longer complied with, such manufactured home(s) shall be removed from the farm.
- (7) If such manufactured home(s) becomes vacated by an employee and remains vacant for a period of one year, the manufactured home shall be removed from the farm.

- B. As Temporary Residence. An individual manufactured home or recreational vehicle may be permitted as an accessory use by the owner for a period of three months. One two-month extension may be granted by the Zoning Enforcement Officer.
  
- C. Except as permitted under § 232-16.6(B), recreational vehicles are permitted in campgrounds only. Nothing in this chapter shall prohibit the storing or parking of an unoccupied recreational vehicle or the temporary parking, not to exceed three months, of an unoccupied manufactured home on any residential lot; provided, however, that such recreational vehicle or manufactured home 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 provision of this chapter, the owner and/or lessee of property within the Town of Copake upon which a permitted manufactured home was situated and existed on July 15, 2018 shall retain such rights and prerequisites pertaining thereto, in the same manner as any other dwelling, including the right to substitute another manufactured home in the place of the manufactured home situated and established on said property. Furthermore, notwithstanding any provision of this chapter, a manufactured home may be placed on any lot for a period not to exceed one year, as of right in the event of major destruction of a house situated on such lot, or, in the event of other unusual hardship, upon obtaining a special use permit from the Zoning Board of Appeals, which permit shall have a duration of one year. In either case, one extension, not to exceed six additional months, may be granted at the discretion of the Zoning Enforcement Officer.

### **§ 232-16.7. Non-Commercial Wind Turbine (NCWT).**

- A. For non-farm residential uses, a single NCWT and its tower may be allowed on a single parcel of property. When NCWTs are proposed for use as part of a farm operation, multiple NCWTs and their towers shall be allowed provided the following criteria are met:
  - (1) That each on-farm NCWT shall meet all standards and requirements set forth in this law.
  - (2) That the aggregate effect of multiple NCWTs on noise, visual disruption, electromagnetic interference, stray voltage, and other adverse environmental effects meets all standards and requirements of this law for a single NCWT unit.
  - (3) That when electrical output from an NCWT used for farm operation consistently results in net-metering of more than 110% of need, then in that case no additional NCWTs may be installed on that property.
  
- B. Wind Turbine Tower Height: The maximum wind turbine 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.

- C. Guy Wires: Anchor points for any guy wires for a wind turbine tower shall be located within the property upon which the NCWT is located and not on or across any above-ground transmission or distribution lines.
- D. Over-speed Controls: All NCWTs 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.
- E. Set-back: All wind turbine 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 125% of the wind power tower height. The Planning Board may accept a set-back agreement between the NCWT owner and the owner of adjoining property, and between the NCWT owner and those with rights of way and easements on or through the NCWT 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.
- F. Noise: The maximum noise level generated by an NCWT shall not exceed 40 dBA as measured at all adjoining property lines or rights of way.
- (1) If there are prominent impulsive, amplitude modulated low frequency or tonal components to the sound generated by the NCWT, 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.
  - (2) 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 NCWT and to advise the Planning Board.
  - (3) 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.
- G. Visual Disruption:

- (1) The NCWT 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.
  - (2) 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.
  - (3) No advertising or commercial logos or insignias, except the manufacturer's nameplate, shall be permitted on the NCWT or tower.
  - (4) No flags or banners shall be placed on the NCWT or tower.
  - (5) The siting of NCWT 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.
  - (6) 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.
- H. 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.
- I. Compliance with Other Regulatory Agencies:** All NCWTs 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).
- J. Electrical Utility Notice:** No NCWT 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 NCWT. Off-grid NCWTs shall be exempt from this requirement.
- K. Electromagnetic Interference and Stray Voltage:** The NCWT 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 NCWT owner shall promptly mitigate the harmful disruption or damage, or cease operation of the NCWT.

- L. Abandonment of Use:** An NCWT 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, Code Enforcement Officer, or Zoning Enforcement Officer. Upon receipt of a Notice of Abandonment issued by such officer, the NCWT owner shall have 30 days to provide credible evidence to the issuing officer that use of the NCWT has not been abandoned. If the issuing officer finds that credible evidence has not been presented, the NCWT owner shall have 12 months from the date of the finding to restore the NCWT to operation. If the NCWT 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 NCWT and tower within a period stated in the revocation notice, to enter the owner's property and cause the NCWT 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.
- M. Resale of the NCWT:** There shall be no resale of the NCWT and tower for use in the approved location except as part of the conveyance of the parcel on which it is located.
- N. Discontinuation of Approval:** Any NCWT 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.
- O. Decision Criteria and Guidance:** The Zoning Board of Appeals shall issue a special use permit only if the proposed NCWT 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.
- P. Application Materials and Process:** The objective of the application is to have all pertinent information collected and available for review by the Zoning Board of Appeals, 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:

  - (1) 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.
  - (2) Address and location of the property on which the proposed NCWT will be located, including tax map section, block, and lot number.

- (3) A description of the wind power project, including:
- (a) 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 NCWT and wind power tower;
  - (b) 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;
  - (c) 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;
  - (d) The total number of NCWTs and towers to be installed;
  - (e) 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;
  - (f) 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 NCWT(s) and other structures and uses on the lot; elevation of the proposed NCWT(s); location of electrical transmission lines if present or proposed and the distance from the NCWT(s) to those lines; access routes to the proposed NCWT(s); distance from the NCWT to property lines; and setback distance equal to the wind power tower height drawn in circles on the plot plan with each proposed NCWT at the center;
  - (g) 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. NCWTs proposed for use on farm operations shall be considered a Type II action and therefore are exempt from SEQRA provisions;
  - (h) Names and addresses of owners of all abutting properties and of all properties located within 500 feet of the lot upon which the NCWT(s) will be located; and
  - (i) For NCWTs proposed for non-farm use, an agricultural data statement is required if the proposed NCWT 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.

**Q.** 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.

**R.** The Planning Board may require a visual assessment that includes, but is not limited to, a balloon test and visual simulations of the NCWT and tower from specified vantage

points—and shall conduct a site visit—to assess the visual impacts of the proposed NCWT and tower.

- S. 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.
- T. Costs for all reports, assessments, simulations, tests, expert consultants, or other information required by the Planning Board and Zoning Board of Appeals shall be escrowed by the applicant in accordance with Section 232-27 and paid before a special use permit is issued.

### **§ 232-16.8. One-Family Dwelling.**

- A. Up to two sleeping rooms in a one-family dwelling may be rented to transient lodgers, for compensation, as an accessory use, provided that the resident is in concurrent occupancy.
- B. A one-family dwelling, or a part thereof, may be used, offered, or made available for transient lodging, for compensation, for up to ninety-two (92) days in a calendar year as an accessory use.

### **§ 232-16.9. Outdoor Wood Boilers.**

- A. Permit Required.
  - (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) 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.
- B. Permit Approval Process.
  - (1) In reviewing an outdoor wood boiler, the Planning Board may approve, approve with modifications or 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.

- (b) The legal boundaries of the lot to be served.
  - (c) 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.
  - (d) The locations of all known easements and rights-of-way on the lot to be served;
  - (e) The location of all components of the outdoor wood boiler, including underground electric lines, fluid lines or ductwork.
  - (f) The proposed wood burner stack height.
  - (g) The location of all roads, pass ways and rights-of-way within 100 feet of the proposed outdoor wood boiler.
  - (h) 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.
  - (i) Identification of the prevailing wind direction.
- (3) The manufacturer's owner's manual and installation instructions.
  - (4) Any other information that the Board requests that will help the Board reach a decision and establish appropriate conditions.
  - (5) Fees for permits as set by the Town Board.

**C. Approval Criteria and General Standards.**

- (1) All OWBs shall:
  - (a) 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.
  - (b) 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).
  - (c) Meet the EPA's Phase 2 (white hang tag or latest established phase) Program standards for air emissions.
  - (d) 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.
- (2) OWB setbacks:
  - (a) Lot/property line: 100 feet.
  - (b) Residence served by OWB: 25 feet.
  - (c) Any residence not served by OWB on any property: 100 feet.
  - (d) Hospital, school, licensed daycare center, nursing home, park or outdoor recreation facility: 750 feet.

- (e) Public road: 100 feet.
- (3) Chimney (stack) height for OWBs. 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 or per the manufacturer's specifications.
- (4) Fuel for any new or preexisting OWB.
  - (a) Permitted fuel:
    - [1] Firewood;
    - [2] Wood fuel;
    - [3] Untreated lumber;
    - [4] Wood pellets;
    - [5] Corn products;
    - [6] Biomass pellets; and
    - [7] Other fuels specifically permitted by the manufacturer's instructions, such as fuel oil, natural gas or propane backup.
  - (b) Prohibited fuel.
    - [1] Any wood that does not meet the definition of wood fuel;
    - [2] Refuse;
    - [3] Plastics (including but not limited to nylon, PVC, ABS, polystyrene or urethane, foam and synthetic fabrics, plastic films and plastic containers);
    - [4] Gasoline or waste petroleum products;
    - [5] Rubber;
    - [6] Naphtha;
    - [7] Material treated with petroleum products (particle board, railroad ties and pressure-treated wood);
    - [8] 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;
    - [9] Industrial waste;
    - [10] Toxic chemicals;
    - [11] Contaminated waste;
    - [12] Newspaper, cardboard, or any paper with ink or dye products and wastepaper;
    - [13] Animal waste;
    - [14] Food packaging;
    - [15] Paints and paint solvents;
    - [16] Coal; and
    - [17] Any other material prohibited for combustion by state or federal statute.
- (5) Emissions. 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.

**D. Permit Suspension.**

- (1) A Permit issued pursuant to this section may be suspended by the Building Inspector or Code Enforcement Officer 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.
- (2) 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.
- (3) 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.

**E. 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.

**§ 232-16.10. Senior Citizen Housing.**

- A. In new senior citizen housing apartment buildings, 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.

## **§ 232-16.11. Slaughterhouse, Poultry or Rabbit Processing Facility.**

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. 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:

### **A. 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.

### **B. 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) 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;
  - (e) 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;
  - (f) 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;
  - (g) 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;
  - (h) Application form and fee, if required;

- (i) The land upon which the facility rests must be a minimum single parcel of seven acres;
- (j) 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;
- (k) Any new structure must be located a minimum of 100 feet from any stream, pond, lake, or other water body or wetland;
- (l) These requirements apply whether the facility is newly constructed or a re-use of a barn or other existing structure; and
- (m) 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.

## **§ 232-16.12. Solar Energy Facilities.**

### **A. Purpose and Intent.**

- (1) The Town of Copake recognizes that solar energy is a clean, readily available, and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
- (2) The Town of Copake has determined that comprehensive zoning regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, its farmland, and its businesses. This article aims to accommodate solar energy systems while balancing the potential impact on neighbors while preserving the rights of property owners to install solar energy systems. This article is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to be consistent with the Town of Copake Comprehensive Plan; to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the environment or on aesthetic qualities and character of the Town.
- (3) Intent: greater restrictions to prevail. It is not intended by this article to abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings. Whenever this article imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance, or regulations, the provisions of this article shall control.

### **B. Applicability.**

- (1) The requirements of this article shall apply to all solar energy systems and equipment installations installed or modified after the effective date of this local law.

- (2) Solar energy system installations for which a valid building permit has been issued, or, if no building permit was required, for which installation commenced before the effective date of the enactment of this article, shall not be required to meet the requirements of this article. However, to the extent any such solar energy installation is proposed to be enlarged, modified, or changed, such enlargement, modification, or change shall be subject to the requirements of this article. In addition, any system for which plans have previously been submitted in connection with an issued building permit or other approval or permit from the Town, which is proposed to be enlarged, modified, or changed from the previously submitted plans, shall be subject to the requirements of this article to the extent of such enlargement, modification, or change.
- (3) In order to promote innovative design and encourage the inclusion of alternative energy systems within the overall design of a building, solar energy systems determined by the Building Inspector to be building-integrated photovoltaic (BIPV) systems, as defined herein, are exempt from the requirements of this chapter.

#### C. Requirements for Small-Scale Solar Energy Systems.

- (1) No small-scale solar energy system shall be installed or operated in the Town of Copake except in compliance with this section.
- (2) The installation of one or more solar collectors or panels, whether attached to the main structure, an accessory structure, or detached, free standing or ground mounted, or a qualifying solar-thermal system, is permitted as an accessory use. Such installation shall require a building permit.
- (3) Setbacks for Solar Energy Systems by District: Solar collectors or panels are subject to the minimum setbacks, and other dimensions for whatever zoning district in which they are proposed to be installed. Installation of a ground mounted solar energy system located in a front yard is prohibited. A roof-mounted system that is wholly within the footprint of an existing structure that is subject to a prior setback area variance shall be deemed to be in compliance with setback requirements and shall not be required to obtain an additional setback variance.
- (4) Height limits for solar collectors mounted on buildings shall be five feet above the level of the permitted building height. The height of ground mounted solar energy systems shall not exceed fifteen (15) feet when oriented at maximum height.
- (5) All solar collectors and their associated support elements shall be installed in accordance with manufacturers' specifications and in compliance with the New York State Uniform Fire Prevention and Building Code and any other applicable law, regulation, ordinance, or code.
- (6) In order to ensure firefighter and other emergency responder safety, there shall be a minimum perimeter area, not covered by any solar equipment, of 36 inches around the

edge of the roof and adjacent to transitions, which include vertical walls, dormers, valleys, chimneys, vents, and other protrusions, irregularities, or changes in contour, to provide space on the roof for walking around all solar collectors and panels. For ground mounted units, there shall be a minimum horizontal clearance of 48 inches between array rows.

- (7) In order to mitigate electrical hazard to firefighters and other emergency responders, the following shall be implemented:
  - (a) Direct current (DC) and alternating current (AC) isolation switches for the energy system shall be located in close proximity to the electrical service meter.
  - (b) A photovoltaic (PV) system shall have an isolation switch on the electrical service to prevent energy from being fed into the service during a power failure.
  - (c) The electrical meter of a building served by a photovoltaic (PV) system shall have affixed to it a utility warning sticker stating, in substance, that the building is served by a photovoltaic system.
- (8) Small-Scale Solar Energy Systems, except those consisting of roof-mounted solar panels, which shall not require site plan review, shall be subject to a modified site plan review by the Planning Board. No public hearing shall be required for such modified site plan review. Such review shall be limited to consideration of the following factors only, and site plan approval shall be granted by the Planning Board upon the following findings or conditions:
  - (a) Materials and documents required to be submitted in support of the modified site plan review shall provide necessary information, in a form sufficient for adequate planning board review, but site drawings and other descriptive materials shall not be required to be produced by licensed experts unless the planning board determines such to be necessary for site evaluation.
  - (b) All solar collectors and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.
  - (c) All solar collectors and related equipment shall be designed, located, and constructed so as to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
  - (d) Screening shall be provided when practicable from adjoining lots through the use of architectural features, earth berms, landscaping, fencing, or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors.

**D. Requirements for unclassified solar energy systems.**

- (1) A proposed solar energy system that is not a Utility-Scale Solar Energy System, but that fails to qualify as a Small-Scale Solar Energy System, shall be subject to all of the requirements applicable to Small-Scale Solar Energy Systems as set out in subdivision C of this section, above. In addition, the modified site plan approval process for such system shall also require and take into consideration the following:
  - (a) Plans and drawings of the utility-scale solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire utility-scale solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.
  - (b) Details of the noise that may be generated by the system. The Planning Board may require a noise analysis to determine potential adverse noise impacts.
- (2) Any solar energy system with the capacity to produce fifty kilowatts (kW) of energy, or more, except a Small-Scale Solar Energy System located on a farm operation, in accordance with section 232-3 of this chapter, shall, in addition, be required to obtain a special use permit in accordance with this chapter.

**E. Requirements for Utility-Scale Solar Energy Systems.**

- (1) A special use permit and site plan review by the Planning Board shall be required for all utility-scale solar energy systems.
- (2) Utility-scale solar energy systems are prohibited within the Scenic Corridor Overlay Zone.
- (3) Applications, Permits and Approvals Required and Applicable Zoning Districts
  - (a) All applications for utility-scale solar energy systems shall include an application for special use permit and site plan review, and all applicable fees as may be established by the Town Board. Both site plan and special use permit reviews and approvals are required.
  - (b) All applications for utility-scale solar energy systems shall include the following:
    - [1] Plans and drawings of the utility-scale solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire utility-scale solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are

subject to review by the Planning Board and shall not commence until the issuance of site plan approval.

- [2] Plan for clearing and/or grading of the site.
- [3] An electrical diagram detailing the utility-scale solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices identified.
- [4] Documentation of access to the project site(s), including location of all access roads, gates, parking areas, and other vehicular accommodations.
- [5] A stormwater pollution prevention plan per New York State Department of Environmental Conservation requirements to detail stormwater runoff management and erosion control plans for the site.
- [6] Documentation of utility notification, including an electric service order number.
- [7] Photo simulations shall be included showing the proposed utility-scale solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed utility-scale solar energy system, solar collectors, and all other components.
- [8] Details of the proposed noise that may be generated by inverter fans. The Planning Board shall require a noise analysis to determine potential adverse noise impacts.
- [9] Statement co-signed by the applicant and the landowner 1) that the establishment of the proposed utility-scale solar energy system shall not result in a tax penalty, pursuant to section 305 or 306 of the New York State Agriculture & Markets Law, due to the conversion of land to a non-agricultural use, which shall also state the last year, if any, for which the subject lands received an agricultural real property tax exemption, or 2) that the establishment of the proposed utility-scale solar energy system may result in a tax penalty, pursuant to section 305 or 306 of the New York State Agriculture & Markets Law, along with a statement indicating the most recent year, if any, for which the subject lands received an agricultural real property tax exemption, which shall also include a statement of the number of acres to be converted from an agricultural to a non-agricultural use and an estimate of the total amount of tax penalty to be imposed, including interest.
- [10] Part I of the Full Environmental Assessment Form (FEAF) filled out.
- [11] Decommissioning plan and description of financial surety that satisfies the Town of Copake that all required removals of inactive systems shall be

completed. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the utility-scale solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value. The decommissioning plan applies to applicant and all subsequent owners and operators of the subject parcel or solar energy facility, or their successors.

[12] Identification and contact information of the responsible party to be notified in the event of emergency or for any other reason, including the address for notices of the utility-scale solar energy system owner/operator or designated party to receive notice in the event of decommissioning and removal of the energy system. If the party to receive notices, or the address thereof, changes at any time, the applicant is required to notify the Town Clerk, in writing of such change. Such information shall also be provided to the fire district within which the energy facility is located.

[13] The Town of Copake shall require any applicant to pay all associated costs for any application review, including but not limited to engineering, legal, environmental, planning, and the review required under SEQRA. When the Planning Board or Zoning Board of Appeals determines that a review is anticipated to require engineering, legal, environmental, or planning costs, they shall provide an estimate to the applicant. Subsequently, funds adequate to cover such estimated costs shall be placed into escrow by the applicant prior to commencement of any further Planning Board or Zoning Board of Appeals review, and shall be replenished or increased at the direction of either of such boards.

#### (4) Special Use Permit Required

(a) No utility-scale solar energy system shall be permitted except upon obtaining a special use permit in accordance with the procedure and standards for special use permits set out in this chapter. In addition to such standards, issuance of a special use permit shall be contingent upon satisfaction of the following:

- [1] A minimum parcel size of fifteen acres is required for utility-scale solar energy systems.
- [2] A utility-scale solar energy system may occupy up to twenty percent of the area of the parcel on which it is located, provided, however, that the area of land used for any such system shall not exceed ten acres. This land area shall be deemed to include all land under or between any system components within the general perimeter of the system as a whole, but shall not include the area within the twenty-five foot buffer between the system components and the surrounding security fencing.

#### (5) Site Plan Review Required

(a) Every application for a utility-scale solar energy system shall be subject to site plan review and approval, as set out in this chapter, regardless of whether the proposed utility-scale solar energy system exceeds any threshold for site plan review which is otherwise stated in such chapter. In conducting site plan review for a utility-scale solar energy system, the planning board may waive submission that, in the planning board's judgment, are inapplicable or are not relevant to the review of the proposed solar facility. In addition to the requirements and standards set out elsewhere in this chapter, every site plan review of a utility-scale solar energy system shall include a public hearing and site plan approval shall be subject to conformance to the following:

- [1] All utility-scale solar energy systems shall adhere to all applicable Town of Copake building, plumbing, electrical, and fire codes.
- [2] There shall be a minimum 100 foot buffer between any component of the utility-scale solar energy system and the parcel boundary line. The Planning Board is authorized to increase the width of this buffer after analysis of site conditions and adjacent land uses.
- [3] No component of any utility-scale solar energy system may be located within one hundred and fifty (150) feet of any roadway, other than a private service road used solely for access to the site of such energy system.
- [4] Any site containing a utility-scale solar energy system shall be enclosed by perimeter security fencing, to restrict unauthorized access, at a height of 8 feet with HIGH VOLTAGE warning placards affixed every fifty (50) feet.
- [5] There shall be created and maintained within the security fence, and between such fence and the components, structures, or fixtures of the solar energy system, a clear and unobstructed buffer area at least twenty-five (25) feet in width encircling the entire perimeter of the facility, with a surface and grade suitable for the safe passage of fire trucks and other emergency vehicles.
- [6] Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands, or NYS DEC identified critical habitats or rare plant and animal populations shall be avoided.
- [7] Development and operation of the system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Copake or other federal or state regulatory agencies.
- [8] Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed utility-scale solar energy system may be permitted, provided the percentage of newly

cleared land on any parcel does not exceed 10% of the existing woodlands on that parcel.

- [9] Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the U.S. Department of Agriculture, New York State or the Natural Resources Conservation Service.
- [10] Native grasses and native vegetation shall be maintained below the arrays.
- [11] The utility-scale solar energy system, including any associated fencing or proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from:
  - [a] Publicly dedicated roads and highways, including State Route 22 and State Route 23;
  - [b] Existing residential dwellings located on contiguous parcels;
  - [c] A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town of Copake capable of substantially screening the site, shall be provided.
  - [d] The design, construction, operation, and maintenance of any utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
  - [e] All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.
  - [f] All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town of Copake requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

- [g] Artificial lighting of utility-scale solar energy systems shall be limited to lighting required for safety and operational purposes only and shall be down-lighted and shielded from all neighboring properties and public roads.
- [h] Any signage used to advertise the utility-scale solar energy system shall be in accordance with the Town of Copake's signage regulations. The manufacturers or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.
- [i] The height of the solar panel arrays shall not exceed fifteen feet, and no part of any system structure or equipment shall exceed fifteen feet in height, when oriented at maximum height.
- [j] Following construction of a utility-scale ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with native grass and/or planted with low-level native vegetation capable of preventing soil erosion and airborne dust.

**(6) Requirements after approvals.**

- (a)** Any post-construction changes or alterations to the utility-scale solar energy system shall be done by amendment to the special use permit and site plan review and approval, with public hearing, and subject to the requirements of this article.
- (b)** After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

**F. Abandonment or decommissioning of Utility-Scale Solar Energy Systems.**

- (1)** To ensure the proper removal of utility-scale solar energy systems, a decommissioning plan shall be submitted as part of the special use application. Compliance with this plan, shall be made a condition of the issuance of a special use permit under this section. The decommissioning plan applies to the applicant and to any subsequent owner or operator of the subject parcel or solar energy facility, or their successors. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimates shall take into account inflation. Removal of utility-scale solar energy systems must be completed in accordance with the decommissioning plan.
- (2)** A utility-scale solar energy system which has been inactive for a period of one year shall be decommissioned and removed at the owner's or operator's expense, and the site remediated. Upon such failure to maintain operation and activity, all approvals

and permits issued in relation to such system or facility, including special use permit and site plan approval, shall terminate. Decommissioning and remediation shall include removal of the energy system and all its components, associated structures, fixtures, equipment, fencing, and other improvements, including any subsurface wires, footings, or other elements from the parcel. Any access roads created for building or maintaining the system shall also be removed and re-planted with vegetation. The site terrain shall be restored and regraded, if necessary, to a condition generally comparable to its original condition and re-planted with native vegetation.

- (3) All safety hazards created by the installation and operation of the utility-scale solar energy system shall be eliminated and the site remediated within six months of the removal of the utility-scale solar energy system.
- (4) Prior to the issuance of any permits, the Zoning Board will require the applicant to submit a performance/removal bond or other financial surety, as directed by and satisfactory to the Zoning Board, upon advice of the Town's attorney, engineer, or other professional experts, based upon the decommissioning cost estimate in an amount satisfactory to the Town of Copake, to ensure the removal of the system, its components, and associated structures, fixtures, equipment, fencing, or other improvements, and the remediation of the site. In the event that the utility-scale solar energy system is not removed within one year of becoming inactive or the site is not remediated as required, the Town of Copake, by resolution of the Town Board after thirty days' written notice and opportunity of the landowner and system operator to be heard, may cause the same to be removed and the site remediated using the funds from the performance/removal bond or surety. Notice sent by first class U.S. mail to the property owner, as reflected in the Town real property records, to the mailing address set forth therein, and to the energy system owner/operator, at the address for notice set forth in the application, as may be amended or superseded by written notice to the Town Clerk, shall be sufficient notice.

#### G. Indemnification and Insurance.

- (1) Indemnification. The applicant, owner, and operator of the utility-scale solar energy system shall release and hold harmless the Town of Copake and all of its officers, officials, employees, appointees, agents, and servants from and against any and all liability and responsibility for any and all accidents, injuries, and/or damages of any kind to persons (including death) or property arising out of the installation, construction, operation, maintenance, repair or removal of such system. The applicant, owner, and operator shall indemnify and hold harmless the Town of Copake and its officers, officials, employees, appointees, agents, and servants from any and all claims, suits, actions, damages, awards, judgments and costs of every nature, including reasonable attorneys' fees, arising out of the installation, construction, operation, maintenance, repair or removal of such system or of the Town of Copake providing services related to the utility-scale solar energy system.

- (2) Insurance. The operator of a utility-scale solar energy system shall obtain and maintain insurance, issued by an insurer authorized to do business in New York State, to the specifications and in an amount approved by the Planning Board. Such insurance shall name the Town of Copake as an additional insured party. The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days' prior notice has been provided to the Town. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate may be restored.

### **§ 232-16.13. Vehicle Charging and Fueling Stations.**

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

- A. Vehicle fueling 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 dimensional requirements in Section 232-8A.
- 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.

### **§ 232-16.14. Veterinary Hospitals, Kennels.**

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

## **Article VII. Special Provisions for Subdivisions**

### **§ 232-17. 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 any associated improvements as delineated in § 232-17.1, “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.
- 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 § 232-19, "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 resources shall be clearly noted 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.

### **§ 232-17.1. 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 § 232-17 (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 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 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, provided that such system is otherwise in compliance with this Chapter and other applicable laws and regulations.
- (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 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, or is to be owned, in common by an HOA, the applicant shall make an irrevocable, conditional offer of dedication to the Town, binding upon the

HOA, for all open space conveyed or to be conveyed to the HOA. Such offer may only be accepted upon any one of the following circumstances:

- (a) Upon the failure of the HOA to take title to the open space from the applicant or other current owner; or
- (b) Upon dissolution of the association at any future time; or
- (c) Upon failure of the HOA to fulfill its maintenance obligations hereunder; or
- (d) Upon failure to pay its real property taxes.

**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 charged against the landowner or, in the case of an HOA, ratably against the owners of properties within the development and shall, if unpaid, become a tax lien on such property or properties.

**§ 232-17.2. 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 Chapter 197 of the Code of the Town of Copake.

- (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 § 232-17(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 Chapter 197 of the Code of the Town of Copake.

C. Preliminary and final plat review.

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

**§ 232-18. Density bonus for enhanced conservation and best site design standards.**

- A. Developments that incorporate alternative septic system design and best site design methods as outlined in this 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 or subdivision seek this density bonus, the procedures of this section shall be followed. Any applicant seeking the density bonus shall make application to the Planning Board. Upon a determination by the Planning Board that the standards of this section have been satisfied, the density bonus shall be applicable.
- B. Where best site design standards are desired for obtaining enhanced conservation density as described in section 232-8(A), Table 1, Density Control Schedule, 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 or as may be revised and updated, on file with the Copake Building Department), which are incorporated by reference.

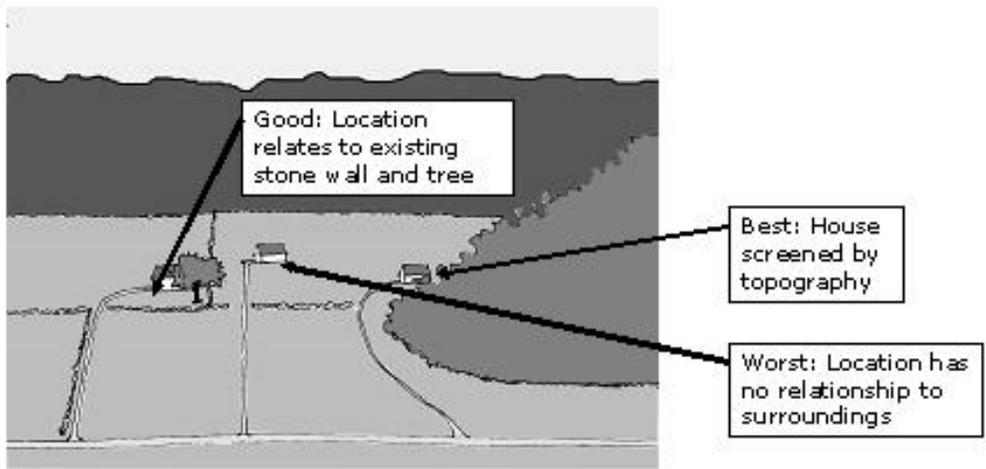
- (1) Low Impact Development Standards:
  - (a) Use of permeable pavers on driveways, roads, parking lots, sidewalks
  - (b) Use of permeable surfaces such as gravel roadways or driveways
  - (c) Bioretention areas
  - (d) Filter and buffer strips
  - (e) Dry wells or cisterns
  - (f) Swales, grass infiltration areas or other ponding areas Inlet and outlet controls
  - (g) Rain Barrels (inexpensive and effective)
  - (h) Infiltration trenches
  - (i) Green rooftops
  - (j) Ground cover maintenance and use of plant material
  
- C. In order to be eligible for the enhanced conservation density, alternative or innovative wastewater treatment systems shall be provided to handle wastewater. These include mound systems and low pressure dosing systems.
  
- D. Impervious surfaces shall be below 15% of the total lot size.
  
- E. The development shall, to the maximum degree feasible, utilize green infrastructure methods from the New York State Green Infrastructure Guidelines.
  
- F. Along shorelines of Copake Lake, Robinson Pond, Taconic Lake, and Chrysler, Rhoda, Snyder Ponds, a shoreline protection buffer shall be established to include all lands from the waterline back 20 feet. No more than 20% of the lineal measurement of the shoreline within such buffer on any given parcel 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, bulkheading, or rip-rapping within the buffer zone. On lots including shorelines, there shall be 150' setbacks from the shoreline for septic systems, less than 15% impervious cover, and, to the maximum extent feasible, use of Low Impact Development methods and rooftop disconnection of water runoff.

**§ 232-19. Rural design and siting standards.**

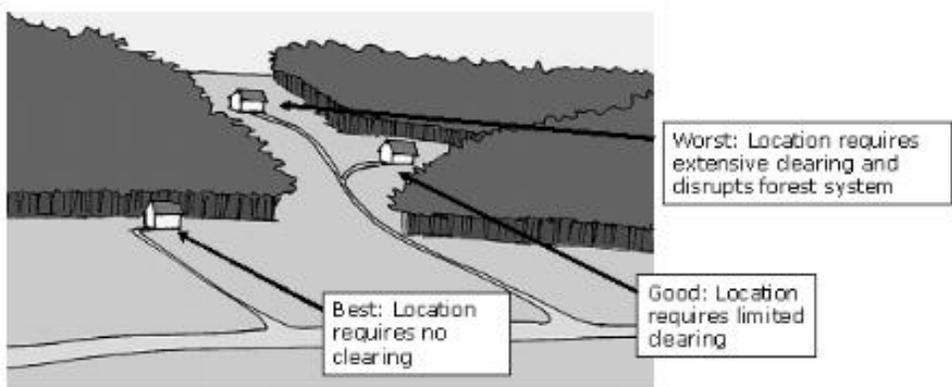
The following guidelines should be considered and may be required as part of subdivision or site plan review in the process of designing and siting houses in the RU District. When locating new houses on the land there are many options in the siting, configuration, size and arrangement of elements in 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

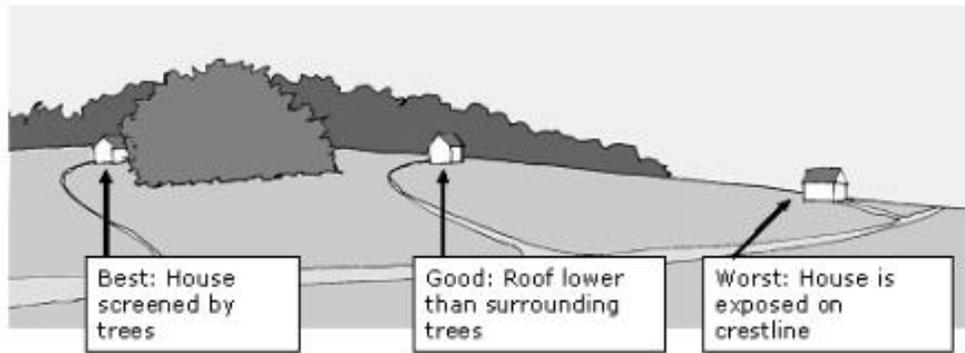
disrupt the relationship of the rural features. Locating structures in the midst of an open field, for example, is discouraged.



- 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.
- F. Development, generally. To the extent feasible, development should be undertaken in conformity with the following guidelines:
- (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.
  - (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.

## Article VIII. Nonconforming Uses

### § 232-20. Nonconforming uses, structures and lots.

#### A. Nonconforming uses.

- (1) Continuation. Any nonconforming use which existed lawfully on July 15, 2018 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.
  - (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 seventy-five percent (75%) or more of its fair market value at the time of such damage, reconstruction for restoration of the nonconforming use must be completed within one year or the use shall expire and terminate, provided, however, that if reconstruction has commenced within the one year period, the owner may apply to the Zoning Enforcement Officer for an extension of time, not to exceed one additional year, in which to restore the existing nonconforming use.

**B. Nonconforming buildings and structures.**

- (1) Continuation.
  - (a) Any nonconforming building or structure which existed on July 15, 2018 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 on or prior to July 15, 2018 may be completed and used in accordance with the permitted 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. An expansion, enlargement, or increase in height of any portion of such building within the permitted building envelope and in accordance with the building height and lot coverage limitations of the district in which the building is located, is permitted and shall not be deemed to constitute an increase in its nonconformity. The nonconforming area of a nonconforming building shall not, however, be enlarged, expanded, or increased in height, or be altered in any way that increases its nonconformity, except upon the issuance of an area variance by the Zoning Board of Appeals.

(b) Replacement. A nonconforming structure may be replaced or rebuilt within the footprint of the original structure, or such that the footprint of the new or rebuilt structure is within an area consisting of the permitted building envelope and the footprint of the nonconforming area of the prior structure and the structure conforms to the bulk and lot coverage limitations of the district in which it is located. A replacement or rebuilt structure shall not exceed the height of the prior structure except as permitted for the modification of a nonconforming structure in accordance with the provisions of B.(2)(a)[2], above.

#### C. Nonconforming lots.

- (1) A nonconforming lot may be used for any purpose permitted on a conforming lot in the same zoning district, without the need of an area variance with respect to lot size, provided that the following provisions are complied with:
  - (a) Such lot has an area of at least 5,000 square feet and a minimum width of 50 feet.
  - (b) The use complies with setbacks and all other requirements for the district in which it is located.
  - (c) The use remains subject to all other review and provisions that are otherwise applicable to the use in the zoning district in which the lot is located.
- (2) Subdivision. A nonconforming lot may not be subdivided or reduced in size, except that 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 and merged into such parcels 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) Exemption of lots shown on approved subdivision plats. 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 on or prior to July 15, 2018, 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 three years after the filing of the subdivision plat.

## Article IX. Site Plan Review

### § 232-21. Site plan review and approval.

- A. Site plan review is to be conducted for the purposes of ensuring compatibility with the Town of Copake Comprehensive Plan and promoting harmony and compatibility with the aesthetic context of a proposed use or development. The Planning Board, in conducting site plan review, shall accordingly assure compliance and compatibility with the standards herein to the maximum extent reasonably feasible. In connection therewith, the Planning Board chairperson or acting chairperson may administer oaths and compel the attendance of witnesses, as authorized by New York Town Law section two hundred seventy-one.
- B. Prior to the issuance of a building permit for a business, commercial, industrial, or general use, or for any multifamily dwelling, or for any structure greater than 3,500 usable square feet of floor space, including agricultural buildings, the Building Inspector shall require site plan approval pursuant to this section. Some agricultural uses may undergo a modified site plan review and approval pursuant to Section 232-21(H)(4).
- C. Exempted Uses. The following land use activities are exempted from the requirements of this Section and shall not require site plan review:
  - (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.
  - (5) Interior alterations that do not substantially change the nature or use of an existing commercial structure.
  - (6) Residential and commercial timber logging.
- D. Integration of procedures. Upon request or consent of the applicant, and in the interest of expediting review and decision-making, whenever the particular circumstances of proposed development require site plan review and compliance with other requirements of the Town, including application for special use permit or variances, the reviewing boards shall attempt

to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

- E. **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 may require statements or testimony under oath to ascertain the full scope of planned development or for other Board purposes, and shall consider applications incomplete where the Board finds 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.
  
- F. **Existing and Discontinued Uses, Structures, and Applications.**
  - (1) Any use or structure lawfully in existence on July 15, 2018 or any building permit issued by the Town of Copake on or before such date shall not be subject to additional site plan review under this article, but only to the extent such use or structure existed or was authorized by such permit as of such date, and any change in size, configuration, or intensity of any existing business, commercial, industrial, general, or multi-family use made or proposed to be made after such date, or any building permit or special use permit issued therefor after such date, shall be subject to site plan review as provided under this article.
  
  - (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.
  
- G. **Site Plan Process**
  - (1) **Sketch plan.** At the option of the applicant, 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 the 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 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.

**H. Application for site plan approval.**

- (1) An application for site plan approval shall be made in writing to the Chairman of the Planning Board and shall be accompanied by the information contained on the following checklist, unless a waiver has been granted pursuant to paragraph (6) of this subdivision. 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. The Planning Board may require that any or all of the following be prepared by experts or licensed professionals if the Planning Board determines that, due to the characteristics of the proposal, such preparation is necessary for adequate review.
- (2) Site plan checklist.
  - (a) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
  - (b) North arrow, scale and date.
  - (c) Boundaries of the property plotted to scale.
  - (d) Location of all natural features, existing watercourses, wetlands, streams, ponds and lakes, areas subject to flooding, steep slopes.
  - (e) Grading and drainage plan showing existing and proposed contours.
  - (f) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
  - (g) Location, design and type of construction of all parking and truck loading areas, showing access and egress.
  - (h) Provision for pedestrian access.
  - (i) Location of outdoor storage, if any.
  - (j) 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.
  - (k) Description of the method of sewage disposal and location, design and construction materials of such facilities.
  - (l) Description of the method of securing public water and location, design and construction materials of such facilities.
  - (m) Location of fire and other emergency zones, including the location of fire hydrants.
  - (n) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
  - (o) Location, size and design and type of construction of all proposed signs.
  - (p) Location and proposed development of all landscaping, buffer areas, including existing vegetative cover.
  - (q) Location and design of outdoor lighting facilities, in accordance with section 232-15.

- (r) Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
  - (s) General landscaping plan and planting schedule.
  - (t) An estimated project construction schedule.
  - (u) Record of application for and approval status of all necessary permits from state and county officials.
  - (v) Identification of any federal, state or county permits required for the project's execution.
  - (w) Zoning District in which property is located.
  - (x) Location, name and dimensions of all easements and right-of-ways.
  - (y) Location and identification of historic structures, if any.
  - (z) Elevation and façade treatment plans for all structures.
  - (aa) 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
  - (bb) The environmental assessment form pursuant to SEQRA, Part 617.
- (3) Additional Requirements for Site Plans. If, upon a review of the materials submitted by the applicant, the Planning Board determines that a proposed project subject to site plan review, other than a single-family or two-family residence, could have traffic, visual, groundwater, or stormwater impacts, the Planning Board may require the applicant to prepare and submit applicable information, studies, reports and plans, as follows. Costs for all studies, reports, assessments, or plans required by the Planning Board shall be borne by the applicant.

(a) Groundwater impact information:

- [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 or stored 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; and
  - [7] The methodology and sources used to derive existing data and estimations.
- (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; and
  - [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) Modified Site Plan Review for Agriculture and Agri-tourism Uses

A modified site plan review may, at the discretion of the Planning Board, be employed for agricultural and agri-tourism uses subject to site plan review, in order to expedite the site plan review process for such uses. In the event the property changes to a non-agricultural use, full site plan review shall be required. Modified site plan review shall

include all procedural elements of a full site plan review, but the submission requirements may be limited to the elements below. If the Planning Board finds that such modified review is insufficient to evaluate the project with respect to consistency with the purposes of this chapter and the Comprehensive Plan, the Planning Board may require submissions in addition to those set forth below, or a full site plan review.

- (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.
- (5) 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.

- (6) Less Intensive Review and Waiver Requirements for Site Plans. The Planning Board may find that some requirements of this subdivision 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 waive any submission requirements for the approval of site plans 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 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 grant a waiver or conduct less intensive review and file such statement along with the site plan application and supporting documents. Requirements of this article may not be waived except upon a concurring vote of a majority of the fully constituted membership of the Planning Board.
- (7) Referral to Other Agencies and Boards. All site plan applications shall be subject to the following:
  - (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. For site plan review of any parcel subject to County Planning Board review pursuant to New York State General Municipal Law section 239-m, prior to taking the final action on the site plan, and at least ten (10) days prior to the public hearing, if one is held, the Planning Board shall refer the plan, including a full statement of the proposed action, with notice of the public hearing, if applicable, to the Columbia County Planning Board for its review and recommendation.
  - (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 Town of Copake Conservation Advisory Committee and Hamlet Revitalization Committee, related to any application being considered for site plan approval.

I. Planning Board action on site plan.

- (1) Acceptance of Site Plan Application. The Planning Board shall, upon a determination by the Board that an application is complete, commence the review process. If, after forty-five days have elapsed subsequent to the filing of the site plan application, the Planning Board determines that the application remains incomplete, the Planning Board may reject the application as incomplete and return the application to the applicant, without prejudice, with a letter identifying and describing the application deficiencies.

- (2) Public Hearing. The Planning Board may conduct a public hearing on the site plan. If held, such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of the site plan application as complete.
  - (a) Public notice of such hearing shall be given in the Town's official newspaper at least five (5) days prior to the date of the hearing.
  - (b) The Planning Board shall mail notice of the hearing to the applicant at least ten (10) days before the Public Hearing.
  - (c) The Planning Board shall, at the applicant's expense, 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 to the Town of Copake Planning Board, at least seven (7) days prior to the public hearing. The names and addresses of the property owners to be notified in accordance with the foregoing shall be taken from the last completed tax roll of the Town.
  - (d) When required by, and in accordance with, section 274-a of the NYS Town Law and section 239-m of the NYS General Municipal Law, the Planning Board shall also provide notice of the public hearing, accompanied by a full statement of the proposed action, to the Columbia County Planning Board by mailing such notice to the County Planning Board at least ten (10) days before such hearing.
  - (e) The public hearing shall not be closed until after either a negative declaration has been issued, or a draft environmental impact study (DEIS) has been accepted, pursuant to SEQRA.
  
- J. Review of site plan. Approval of a site plan shall be contingent upon a determination by the Planning Board that the site plan adequately protects the health and safety of the community and does not create any undue hazard, and, to the extent reasonably feasible, protects adjacent land uses and the environment, is compatible with neighborhood character and is consistent with the Comprehensive Plan. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations and, specifically, conformity with applicable specifications, regulations, and guidelines within this chapter related thereto:
  - (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) Compatibility of the site plan with the goals, policies and standards set forth in the Town of Copake Comprehensive Plan.
- (11) Preservation, to the extent feasible, of significant natural, cultural, and historical features on the site (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) Compatibility of the development with its surroundings and in accordance with Section 232-1 of this zoning law.
- (14) Glare and light pollution that may be associated with new development.
- (15) Compatibility with active agricultural activities. The Town of Copake Conservation Advisory Committee 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.
- (16) Adequacy of control measures to prevent ground water or surface water contamination.
- (17) 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.

(18) General Commercial Design Standards for Town of Copake. See also Design Standards required within the Scenic Corridor Overlay Zone. While it is not the intent of the Town to 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;
- [5] Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) complement traditional examples in the area; and
- [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; and
- [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. 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 Business District; and
- [2] The road side of the building should look like the front façade.

**(e) Roof Types and Materials.** 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.

**K. 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 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 decision. 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. When a site plan review is subject to County Planning Board review pursuant to section 239-m of the NYS General Municipal Law, the Planning Board shall not render a decision or take final action except in compliance with the time periods and voting requirements set forth therein.

- (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 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.
- (2) Approval with Modifications.** The Planning Board may approve the site plan and require that specific modifications be made or conditions be imposed. A copy of a written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant. The applicant shall submit a modified final site plan in reproducible form. Upon approval of the submitted modified site plan 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 final site plan and shall, within five (5) business days of its final approval, file the site plan and a written statement of approval with the Town Clerk. A copy of the final approval shall be mailed to the applicant.
- (3) Disapproval.** Upon disapproval of the site plan, the Planning Board shall make a written statement of the decision and reason for disapproval and shall, within five (5)

business days of its decision, file the statement with the Town Clerk and mail a copy thereof to the applicant.

- (4) When a site plan has been subject to County Planning Board review, the Planning Board shall, within thirty (30) days of taking final action, file a report of the decision or action with the County Planning Board, in accordance with section 239-m of the NYS General Municipal Law.
- L. 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 Zoning Enforcement Officer after consultations with the Town Board, Town Engineer, Planning Board, Building Inspector, Town Attorney and other appropriate parties.
- M. Inspection of improvements. The Zoning Enforcement Officer shall be responsible for the overall inspection of site improvements for compliance with the approved site plan, including coordination with the Planning Board and other officials and agencies, as appropriate.
- N. 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. The Planning Board may, upon written request of the applicant submitted at least sixty (60) days prior to such expiration, extend this period one time for a period of no more than six (6) months.
- O. Any amendment, modification, or revision to an approved site plan sought by an applicant shall be subject to all statutory requirements applicable to a new application and to all procedural requirements as set out in this chapter applicable to a new application. The reviewing board may, however, at its discretion, take account of materials and information previously submitted with the original application and modify the submission requirements for the requested amendment, modification, or revision accordingly.

## Article X. Zoning Board of Appeals

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

- A. Purpose and authority. A Zoning Board of Appeals is established in accordance with section 267 of the NYS Town Law. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such Boards by NYS Town Law sections 267, 267-a, 267-b and any other applicable State law, and as provided in this Chapter, and shall also have the authority to issue special use permits, in accordance with NYS Town Law section 274-b and this Chapter.

## B. Membership.

- (1) The Board shall consist of five (5) members appointed by the Town Board for staggered terms of five (5) calendar years.
- (2) 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.
- (3) The Town Board shall appoint at least one (1) person, but not more than two (2) persons, as an Alternate Member of the Zoning Board of Appeals for a term of five calendar years. The term of the first-appointed alternate member serving at the time of adoption of this provision shall end on December 31, 2020, and the subsequent terms shall end on December thirty-first of the ensuing five-year periods. The term of any additional alternate member shall be staggered to as to terminate on December thirty-first of successive years. Appointments to fill vacancies shall be for the remainder of the term of the position to be filled. 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. Notwithstanding any limitation contained in NYS Town Law section 267 or elsewhere, the chairperson of the Zoning Board of Appeals shall be authorized to designate an alternate member so appointed to participate in any meeting, vote, action, or proceeding of the Board in place of a member who is unable to participate due to a conflict of interest or absence, provided that such alternate shall have been in attendance for any public hearing in relation to the matter at issue or otherwise familiarized himself or herself with the relevant record prior to casting a vote in the determination or disposition of a matter. The 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. At all other times, an Alternate Member may participate in discussions of the proceedings, but may not vote.
- (4) Terms of members now in office. Members now holding office shall continue in their positions for the duration of their respective terms, as previously appointed.

## C. 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, in accordance with section 267 of the NYS Town Law.
- (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.

- D. 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.
- E. Chairperson. The Town Board shall designate 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.
- F. Board of Appeals Procedure.
- (1) The procedures of the Zoning Board of Appeals shall be in accordance with section 267-a and section 274-b as applicable to special use permits, of Article 16 of the New York State Town Law, and as follows.
  - (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.
  - (4) For the purposes of this chapter and the provisions of Article 16 of the New York State Town 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”.
  - (5) Where a proposed special use, site plan, or subdivision application 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.
  - (6) The term “appeal” includes application for a variance.
  - (7) 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 accordance with NYS Town Law section 267-a, 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 state or include the following:

  - [1] A copy of the order, requirement, decision, interpretation or determination being appealed;
  - [2] identification of the specific section of the Zoning Law or other code or law involved;
  - [3] description of either the interpretation claimed by the applicant or the variance or other relief that is sought;
  - [4] a statement of the grounds upon which it is claimed the relief should be granted;
  - [5] a short or full Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA);
  - [6] an Agricultural Data Statement if required by article 25-aa of the New York State Agriculture and Markets Law;
  - [7] other documents relevant to the appeal specified by the zoning Board of Appeals.
- (c) 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.
- (d) 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.
- (8) Public Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and shall provide notice as follows:

  - (a) The Zoning Board of Appeals shall give public notice of such public hearing by publication in a paper of general circulation in the town at least five (5) days prior to the date thereof.
  - (b) The Zoning Board of Appeals shall mail notice of the hearing to the appellant or applicant and other parties at least five (5) days before the Public Hearing.
  - (c) The Zoning Board of Appeals shall, at the applicant's expense, send or cause to be sent notice of the public hearing to abutting property owners, the owners of property within five hundred (500) feet of the property which is the subject of the appeal, and those agricultural operators identified on the Agriculture Data Statement, by certified mail, return receipt to the Town of Copake Zoning Board of Appeals, at least seven (7) days prior to the public hearing. The names and addresses of the property owners

to be notified in accordance with the foregoing shall be taken from the last completed tax roll of the Town.

- (d) When required by, and in accordance with, section 267-a of the NYS Town Law and section 239-m of the NYS General Municipal Law, the Zoning Board of Appeals shall provide notice of the public hearing, accompanied by a full statement of the proposed action, to the Columbia County Planning Board by mailing such notice to the County Planning Board at least five (5) days before such hearing.
  - (e) When required by, and in accordance with, section 267-a of the NYS Town Law, the Zoning Board of Appeals shall also provide notice of the public hearing to regional state park commission having jurisdiction over any state park or parkway within five hundred feet of the property affected by such appeal by mailing such notice to such commission at least five (5) days before such hearing.
  - (f) 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.
  - (g) Provided that there has been substantial compliance with this provision, failure to give notice in strict conformance herewith shall not 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.
  - (h) The public hearing shall not be closed until after either a negative declaration has been issued, or a draft environmental impact study (DEIS) has been accepted, pursuant to SEQRA.
- (9) Referral to the Town of Copake Planning Board. 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.
- G. 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. When a matter is subject to County Planning Board review pursuant to section 239-m of the NYS General Municipal Law, the Zoning Board shall not render a decision or take final action except in compliance with the time periods and voting requirements set forth therein.

- (1) 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.
  - (2) When an appeal or matter has been subject to County Planning Board review, the Zoning Board of Appeals shall, within thirty (30) days of taking final action, file a report of the decision or action with the County Planning Board, in accordance with section 239-m of the NYS General Municipal Law.
  - (3) Expiration and Termination of Variance. An area variance shall expire and become void ten (10) years after approval unless the applicant shall have commenced and substantially proceeded with the use. A use variance shall expire and become void one (1) year after approval unless the applicant shall have commenced and substantially proceeded with the use. In either event, the Zoning Board of Appeals may, upon written request of the applicant submitted at least sixty (60) days prior to such expiration, extend this period one time for a period of no more than six (6) months.
- H. Any amendment, modification, or revision to an approved variance sought by an applicant shall be subject to all statutory requirements applicable to a new application and to all procedural requirements as set out in this chapter applicable to a new application. The reviewing board may, however, at its discretion, take account of materials and information previously submitted with the original application and modify the submission requirements for the requested amendment, modification, or revision accordingly.

### **§ 232-23. Special use permits.**

- A. 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 section 274-b of the New York Town Law and the provisions set forth in this section. No land or structure may be used or constructed for any use requiring a special use permit pursuant to this chapter, and no use subject to a special use permit under this chapter may be permitted, enlarged or altered, unless approved by the Zoning Board of Appeals.
- B. Application for special use.
  - (1) Sketch plan. At the option of the applicant, a sketch plan conference may be held between the Zoning Board of Appeals and the applicant prior to the preparation and submission of a formal application for a special use permit. The intent of such a conference is to enable the applicant to inform the Zoning Board of the proposal prior to the preparation of a detailed application and for the Zoning Board to review the basic proposal, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the permit application. In order to accomplish these objectives, the applicant should provide seven (7) copies of the following, 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, accompanied by a request to be placed on the meeting agenda for a sketch conference:

- (a) A description of the nature and intensity of the use.
  - (b) An area map showing the parcel under consideration for a special use permit;
  - (c) 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, where applicable, measures and features to comply with wetland, stream, flood hazard and flood insurance regulations, if needed;
  - (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; and
  - (f) 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.
- (2) Subsequent to the sketch conference, if one is held, or prior to the meeting at which the application is to be presented, seven (7) copies of the application accompanied by the following 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.
- (a) The information and materials specified above for a sketch conference;
  - (b) An agricultural data statement, if required;
  - (c) Environmental assessment form;
  - (d) 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;
  - (e) Other materials or information, relevant or necessary for the consideration of the permit as directed by the Zoning Board.
- (3) Where Site Plan Approval Also Required. Where site plan approval is also required, the site plan review process may, at the option of the applicant, be conducted concurrently with the special use permitting process.

- (4) Waiver Request. The Zoning Board of Appeals may find that some requirements of this subdivision 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 submission requirements for the approval or disapproval of special use permits provided such a waiver does not prevent or circumvent the purposes and intent of this chapter 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 special use permit application and supporting documents. Requirements of this law may not be waived except upon a concurring vote of a majority of the fully constituted the Zoning Board of Appeals.

#### C. Procedures.

- (1) The Zoning Board of Appeals shall, upon a determination by the Board that an application is complete, commence the review process. If, after forty-five days have elapsed subsequent to the filing of the special use permit application, the Zoning Board of Appeals determines that the application remains incomplete, the Zoning Board may reject the application as incomplete and return the application to the applicant, without prejudice, with a letter identifying and describing the application deficiencies.
- (2) Public Hearing Required. Within sixty two (62) days of receipt of a complete application, the Zoning Board of Appeals shall hold a public hearing and provide notice as follows.
  - (a) Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five (5) days prior to the date thereof.
  - (b) The Zoning Board of Appeals shall mail notice of the hearing to the applicant at least ten (10) days before such hearing.
  - (c) The Zoning Board of Appeals shall, at the applicant's expense, 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 to the Town of Copake Zoning Board of Appeals, at least seven (7) days prior to the public hearing. The names and addresses of the property owners to be notified in accordance with the foregoing shall be taken from the last completed tax roll of the Town.
  - (d) When required by, and in accordance with, section 267-a of the NYS Town Law and section 239-m of the NYS General Municipal Law, the Zoning Board of Appeals shall provide notice of the public hearing, accompanied by a full statement of the

proposed action, to the Columbia County Planning Board by mailing such notice to the County Planning Board at least ten (10) days before such hearing.

- (e) The cost of sending or publishing any notices relating to such application, or a reasonable fee relating thereto, shall be borne by the applicant and shall be paid to the Board prior to the hearing of such application.
- (f) Provided that there has been substantial compliance with this provision, failure to give notice in strict conformance herewith shall not invalidate an action taken by the Zoning Board of Appeals.
- (g) The public hearing shall not be closed until after either a negative declaration has been issued, or a draft environmental impact study (DEIS) has been accepted, pursuant to SEQRA.

**D. Approval and Conditions.**

- (1) Prior to approving an application for a special use permit, the Zoning Board of Appeals shall determine that the proposed special use, as submitted or modified, with conditions, will conform to the character of the neighborhood within which it is located, will have no more adverse effects on health, safety, or welfare of persons living or working in the neighborhood and shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, and conforms to the objectives enumerated below.
- (2) In approving any special use permit, the Zoning Board of Appeals may impose such reasonable standards, conditions, or requirements as it determines to be necessary in order to protect the public interest and welfare and to be consistent with the Town of Copake Comprehensive Plan. The Zoning Board 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 to the extent reasonably feasible and shall 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 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 to the extent reasonably feasible, including protection against noise, glare, unsightliness, or other objectionable features;
- (m) The special use shall not significantly 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 substantially 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; and
- (q) The Zoning Board of Appeals shall evaluate the impact of the proposal on existing agricultural operations in that district.

**E. Decisions.**

- (1) Time of decision. The Zoning Board of Appeals shall decide upon the special use permit application 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. When a matter is subject to County Planning Board review pursuant to section 239-m of the NYS General Municipal Law, the Zoning Board shall not render a decision or take final action except in compliance with the time periods and voting requirements set forth therein.
  - (2) Type of Decision. In rendering its decision the Zoning Board of Appeals shall approve, disapprove or approve with 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.
  - (3) 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.
  - (4) When a special use permit application has been subject to County Planning Board review, the Zoning Board of Appeals shall, within thirty (30) days of taking final action, file a report of the decision or action with the County Planning Board, in accordance with section 239-m of the NYS General Municipal Law.
- F. Expiration and Termination of Special Use Permit.** A special use permit shall expire and become void one (1) year after approval unless the applicant shall have commenced and substantially proceeded with the use. The Zoning Board of Appeals may, upon written request of the applicant submitted at least sixty (60) days prior to such expiration, extend this period one time for a period of no more than six (6) months. If, at any time, including subsequent to the commencement of the use, there has been no activity related to the approved use for more than one year, the special use permit shall terminate and become void.
- G. 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 Building Inspector or Zoning Enforcement Officer.
- H. 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.
- I. Expansion of special use.** Any change to a specially permitted use that involves new construction, enlargement, exterior alteration of existing structures, increased parking, an increase in the floor area, lot area, or lot coverage allocated to the special use, 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.

- J.** Any amendment, modification, or revision to an approved special use permit sought by an applicant shall be subject to all statutory requirements applicable to a new application and to all procedural requirements as set out in this chapter applicable to a new application. The reviewing board may, however, at its discretion, take account of materials and information previously submitted with the original application and modify the submission requirements for the requested amendment, modification, or revision accordingly.

## Article XI. Administration and Enforcement

### **§ 232-24. Administration.**

- A.** No land or building shall be used or changed in use, except in conformance with this chapter.
- 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.

### **§ 232-25. Enforcement.**

- A.** This chapter shall be enforced by a Zoning Enforcement Officer appointed by the Copake Town Board. The foregoing shall not be construed to limit in any way the lawful enforcement or other powers of the Town Building Inspector or Code Enforcement Officer as may be conferred by law or regulation, or by the Code of the Town of Copake. In the case of absence or vacancy in the office of Zoning Enforcement Officer, all powers conferred upon the Zoning Enforcement Officer shall be granted to and exercised by the Code Enforcement Officer.
- B.** Any person may file a complaint with the Zoning Enforcement Officer regarding a violation of this chapter. A complaint filed with or addressed to the Town Building

Inspector of Code Enforcement Officer, which alleges a violation of this chapter, shall be deemed filed with the Zoning Enforcement Officer and shall be forwarded by the receiving officer to the Zoning Enforcement Officer.

- (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 30 days and forwarded to the Town Attorney in the event a violation is determined to exist.
- C. 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. A copy of such notice shall be provided to the Building Inspector. The Building Inspector shall not issue any further building permits in relation to the parcel or lot on which the violation exists until such violation is removed or corrected.
- D. In cases where the removal of the violation within 30 days would be manifestly impossible, the Zoning Enforcement Officer shall obtain from the Town Attorney a determination as to the reasonable period of time within such violation shall be removed.
- E. 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.
- F. 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.
- G. 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.
- H. Lending institutions must follow Town Zoning and Subdivision Regulations.
- I. Professional builders who operate without a building permit will be fined according to § 232-26.

## **§ 232-26. Penalties for offenses.**

- A.** Penalties for offenses. A violation of this chapter is hereby declared to be an offense, in accordance with section two hundred sixty-eight of the New York Town Law, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed fifteen days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed fifteen days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed fifteen days, or both. Except as otherwise provided by law, such offense shall not be a crime. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such local law, ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- B.** Civil penalties. In addition to those penalties prescribed by state law or otherwise, any person who violates any provision of this chapter or any term or condition of any permit, approval, certificate, order, or notice issued pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than five hundred dollars (\$500) for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town.
- C.** Injunctive relief. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this chapter or any term or condition of any permit, approval, certificate, order, or notice issued pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of this chapter, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions.
- D.** Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, after, independent of, or in conjunction with, the pursuit of any other remedy or penalty specified in this section, in any other section of this chapter, or in any other applicable law.

### **§ 232-27. Reimbursable costs and escrow accounts.**

- A. The Planning Board and Zoning Board of Appeals may require assistance in their review of any matter or application in the form of professional review by an engineer, attorney, planner, or other type of consultant or expert. Each such reviewing board 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, or as the board otherwise finds necessary for proper and sufficient review of the matter. In such case, or if the reviewing board incurs other extraordinary expense in order to properly review or analyze documents or information, or conduct special studies in connection with the proposed application, the reasonable costs related to the review, including any studies, reports, analysis, or other information that may be required by the reviewing board, not to exceed actual costs, shall be borne by the applicant.
- B. The provisions of Chapter 126 of the Code of the Town of Copake ("Fees") apply independently to the Planning Board and Zoning Board of Appeals, and each such board may independently require compliance with this section and such chapter in relation to its review of an application or matter.

### **§ 232-28. Removal of members of Planning Board and Zoning Board of Appeals.**

- A. In addition to the removal authority of Chapter 12 of the Code of the Town of Copake or as may otherwise be authorized by law, the Town Board may remove, upon written request by the Planning Board and after public hearing, any member or alternate member of the Planning Board, or, upon written request by the Zoning Board of Appeals and 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, but is not limited to, one or more of the following:
  - (1) Any undisclosed or unlawful conflict of interest;
  - (2) Failure to complete mandatory training requirements;
  - (3) For a member of the Planning Board, absence at one-third or more of the meetings of the Planning Board during the course of one calendar year;
  - (4) For a member of the Zoning Board of Appeals, absence at one-third or more of the meetings of the Zoning Board of Appeals during the course of one calendar year.

## Article XII. Amendment and Application

### § 232-29. Amendments.

Amendments to this chapter shall be in accordance with § 265 of the Town Law of the State of New York or the Municipal Home Rule Law, 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 districts established under this chapter after public notice and hearing in each case. All petitions for any amendments of the regulations or districts herein established must 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 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 of hearing to adjoining towns and to any required county, state or federal agency, to the extent and 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.

### § 232-30. Interpretation and application.

- A. Separate Validity. If any Article, subsection, paragraph, clause, or other provision of this chapter 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 chapter.

**Table 1. Density Control Schedule.** 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 232-17.	200	50	35	75	2 ½	35	20%
<b>Hamlet (includes Copake, Copake Falls, and Craryville Hamlets)</b>	H	<u>With no public or community sewer available</u>  30,000 square feet	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 (B).

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

<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>Hamlet (includes Copake, Copake Falls, and Craryville Hamlets)</b>	H	<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 and Copake Falls, areas)</b>	H-B	Basic Conservation: 1 acre minimum lot size  Enhanced Conservation: 0.5 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%
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<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 232-17.	200	50	35	75	2 ½	35	20%
<b>Mixed Use</b>	MU	2 acres minimum lot size	150	50	20	60	3	40	20%
<b>Taconic Shores</b>	TS	No further subdivision of lots is allowed.	150	50	35	75	2 ½	35	20%

**Table 2. Table of Use Regulations..**

**KEY:**

- P** A use permitted by right.
- SU** 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.
- SP** A use contingent on securing a site plan approval from the Planning Board.
- X** The use is prohibited.

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
<b>Residential Uses</b>								
Accessory dwelling unit	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SU</b>	<b>SP</b>	<b>SP</b>
Assisted Living Facility	<b>SU</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
Dormitory	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>
Manufactured home as a single-family dwelling	SP - Only for Farm Worker Housing	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Multifamily dwelling	<b>X</b>	<b>SP</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>
One-family dwelling	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>X</b>	<b>P</b>	<b>P</b>

Residential apartment in commercial building	SU	SU	SU	X	SU	SU	P	P
Senior Citizen Housing	SU	X	SU	X	SU	SU	P	P

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
Two-family dwelling	P	X	P	X	P	X	P	P
<b>General Uses</b>								
Accessory uses incident to any permitted use on the same lot	P	P	P	P	P	P	SP	SP
Agriculture for home use	P	P	P	P	P	P	P	P
Bed and Breakfast	SU	SU	SU	X	SU	X	P	P
Camp, Campground	SU	X	X	X	X	SU	X	X
Cemetery	SU	X	X	X	X	X	X	X
Church or other place of worship	SU	SU	X	X	X	SU	SP	SP
Cultural facilities (library, museum, etc.)	SU	SU	SU	X	SU	SU	SP	SP
Day-care facility (caring for more than 5 people)	SU	SU	SU	SU	SU	SU	SU	SU

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
Federal, state, county or town offices, fire station, highway department	<b>X</b>	<b>SP</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SP</b>	<b>SP</b>
Golf course, Country Club Golf Driving Range	<b>SU</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
High-tension transmission lines	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Hospital, Nursing Home	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
Boardinghouse	<b>SU</b>	<b>X</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>
Major Home Occupation	<b>SP</b>	<b>SP</b>	<b>X</b>	<b>X</b>	<b>SP</b>	<b>X</b>	<b>SU</b>	<b>SP</b>
Medical Facility	<b>X</b>	<b>SP</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SP</b>	<b>SU</b>	<b>SU</b>
Miniature golf	<b>X</b>	<b>SP</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>SP</b>	<b>X</b>	<b>SU</b>
Minor Home Occupation	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>X</b>	<b>P</b>	<b>P</b>
Outdoor wood boiler	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SU</b>	<b>SU</b>

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
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>	<b>P</b>
Public utility structures and buildings	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>X</b>	<b>SU</b>
Resort hotel, resort lodge, resort ranch	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
School	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>
Small-scale solar energy system, Solar energy system--unclassified	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Stable, public and Riding Academy (permitted subject to seven acre minimum)	<b>SP</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SP</b>	<b>SP</b>	<b>X</b>	<b>X</b>
Tourist House	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>
Utility-scale solar energy system	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>SU</b>	<b>SU</b>	<b>X</b>

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
Telecommunications towers and facilities (see Chapter 230)	SU	X	X	X	SU	SU	X	X
Urgent Care Facility	X	SU	X	X	X	SU	SU	SU
Wind Turbine, Non-Commercial	SU	SU	SU	X	SU	SU	SU	SU
<b>Business Uses</b>								
Adult Entertainment	X	X	X	X	X	SU	X	X
Agricultural Use	P	P	X	X	P	P	P	P
Agricultural-related business including Brewery/Distillery and Winery	SP	SP	X	X	SP	SP	P	P
Agri-tourism including Brewery/Distillery/Winery	SP	SP	X	X	SP	SP	P	P
Airport, flying field, seaplane	X	X	X	X	X	X	X	X
Bar or nightclub	X	SP	SU	X	X	SP	X	SU
Bus Shelter/Stop	X	SU	X	X	X	SU	P	P
Commercial greenhouse	SP	SP	X	X	SP	SP	P	P

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
Contractor's yard	SU	X	X	X	X	X	X	X
Convenience store	X	SU	X	X	X	X	X	SU
Equipment and trailer rental, sales, or service	X	SP	X	X	X	X	X	X
Farm Market	SU	SP	X	X	SU	X	X	SU
Farm Stand	P	P	P	X	P	P	P	P
Farm Stay	P	X	X	X	X	X	X	SU
Funeral home	X	SP	X	X	X	X	X	X
Laundromat, Laundry or dry- cleaning plant	X	SU	X	X	X	X	X	SU
Hotel	X	SP	X	X	X	SP	X	SU
Motel	X	SP	X	X	X	SP	X	X
Motor Vehicle Repair (including Body Repair Shop), Car Wash)	X	SU	X	X	X	X	X	SU
New- and used-car sales	X	SU	X	X	X	X	X	X
Newspaper office, print shop	X	SU	X	X	X	X	X	SP
Professional Office	X	SP	X	X	X	SP	X	P
Retail Store	X	SP	X	X	X	SP	P	P
Recreational Business	X	SU	SU	X	X	SU	X	SU

Uses	RU Agriculture and Rural Residential	HW-B Highway Business	CL Copake Lake	TS Taconic Shores	CRS Chrysler, Rhoda, Snyder Ponds	MU Mixed Use	H Hamlet (Copake, Copake Falls, North Copake, Craryville	HB Hamlet Business
Restaurant	X	SP	SU	X	X	SP	X	SP
Service Establishment (barbershop, repair shop, etc.)	X	SP	X	X	X	SP	X	SU
Storage, Outdoor	P	SP	X	X	SP	SP	SP	SP
Storage, Commercial	X	SP	X	X	X	SU	X	X
Vehicle Fueling Station	X	SU	X	X	X	X	X	SU
Vehicle Charging Station	X	SP	SP	X	X	SP	P	P
Veterinary Hospital, Kennel	SU	SU	X	X	X	X	X	X
Wholesale business or service	X	SU	X	X	X	X	X	X
<b>Industrial Uses</b>								
Extractive operations (See Definition)	SU	X	X	X	X	X	X	X
Fuel storage and distribution	X	SU	X	X	X	X	X	X

Light Industry	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
Manufacturing, Assembly and Fabrication	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
Power plant	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Research laboratory	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>SU</b>	<b>X</b>	<b>X</b>
Wind Power Facility, Commercial	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

1. Uses not permitted by right or as a conditional use, whether listed above or not, are prohibited.
2. The Flood Area Overlay Zone (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 approval under Ch. 232-21 of the Copake Town Code.

# **Amendments to Chapter 197 of the Code of the Town of Copake “Subdivision of Land.”**

## **Section 197-2 of Chapter 197 of the Code of the Town of Copake is amended as follows:**

The definition of “Major Subdivision” is amended to read as follows:

MAJOR SUBDIVISION – A subdivision of land resulting in the creation and net increase of five or more lots or the construction of one or more new public or private roads, or any other subdivision classified by the Planning Board as a Major Subdivision due to its probable impact or conflict with Town planning and zoning documents, or otherwise in accordance with this chapter.

The definition of “Minor Subdivision” is amended to read as follows:

MINOR SUBDIVISION – A subdivision of land resulting in the creation and net increase of not more than four lots, with no new roads, and classified by the Planning Board as a Minor Subdivision upon a finding that such subdivision is not expected to adversely affect the development of the remainder of the subject parcel or adjoining properties and is not in conflict with any provision, portion, or purpose of the Town Comprehensive Plan, Chapter 232 (“Zoning”) or this chapter of the Code of the Town of Copake, or the Zoning Map of the Town of Copake.

A new definition “Boundary Line Adjustment (BLA)” is added, to read as follows:

BOUNDARY LINE ADJUSTMENT (BLA) – A subdivision of land for purposes of changing the location of one or more boundary lines between two or more parcels, as a result of which the land area of an existing parcel is decreased and the land area of one or more adjacent existing parcels is increased, and there is no net increase in the number of parcels. A boundary line adjustment is subject to review and approval under this chapter, but shall not be counted for purposes of designating a subdivision as a Major Subdivision.

## **Subdivision G. of section 197-5 of chapter 197 of the Code of the Town of Copake is amended to read as follows:**

- G.** Any subsequent minor subdivision of any lot previously subdivided or created under this chapter must be submitted to the Planning Board for approval, and the number of additional lots proposed to be created shall be added cumulatively to the number of lots approved within the five year period immediately preceding the filing of the current application for subdivision and to the number of proposed lots in any pending application for subdivision. If the Planning Board determines that the proposed subsequent minor subdivision plus the earlier minor subdivision(s) approved or applied for result in a number of lots that would constitute a major subdivision, the Planning Board may, at its discretion, deem the current application for subdivision to be a major subdivision and require that the current

application be subject to review and all provisions applicable to a major subdivision. For purposes of this calculation, all subdivisions and lots derived from the parcel that the subject lot was a part of at the beginning of the five-year lookback period may be considered by the Planning Board.

## **Zoning Map.**

The official Zoning Map of the Town of Copake is revised and amended, as shown on a map entitled “Conceptual Zoning Districts Version 8, 7-4-2017,” as certified by the Town Clerk and displayed and on file at the Town Hall of the Town of Copake.