

VILLAGE OF PAINTED POST ZONING LAW

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**CHAPTER 280
ZONING LAW**

Village of Painted Post

ARTICLE I

§ 280.1 TITLE AND PURPOSE

The following is a law duly adopted by the Village Board of Trustees of the Village of Painted Post, Steuben County, New York on July 9, 1984, subsequently amended and most recently revised on February 12, 2001, to wit:

- A. **CONTENT.** A LAW to promote the health, safety, morals and general welfare of the Village of Painted Post; regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes; creating districts for said purposes, and establishing the boundaries thereof; establishing a Zoning Board of Appeals to determine and vary the application of such regulations and restrictions in harmony with their general purposes and intent, and in accordance with general and specific rules herein contained; and providing for the enforcement of such law;

- B. **PURPOSE.** IN PURSUANCE of authority conferred by Article 7-A of the Village Law of the State of New York, and in accordance with a comprehensive plan designed to lessen congestion in the streets and highways, to secure safety from fire, flood, panic and other dangers; to promote health and general welfare, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of property, and encouraging the most appropriate use of land throughout the Village.

It is recognized that certain conditions exist throughout the Village which are not in conformance with various sections of this Law. It is the intent that these non-conforming conditions not be perpetuated and that as changes occur, they be corrected to the extent possible to move toward conformity.

This Law shall be known and may be cited as the “Zoning Law of the Village of Painted Post.”

- § 280.2 (Reserved)
- § 280.3 (Reserved)
- § 280.4 (Reserved)
- § 280.5 (Reserved)
- § 280.6 (Reserved)

**ARTICLE II
INTERPRETATION AND DEFINITIONS**

§ 280.7 INTERPRETATION AND APPLICATION

- A. **LEGISLATIVE INTENT.** In their interpretation and application, the provisions of this Zoning Law shall be held to be minimum requirements adopted to achieve the intent of this Law as set forth in Article I.

- B. **ANNULMENT OF PREVIOUS ORDINANCES.** This Zoning Law shall annul and supercede any previously adopted zoning laws and ordinances of the Village of Painted Post.

- C. **NON-INTERFERENCE AND PRECEDENCE.** Except as noted in Section 280.7B of this Law, this Zoning Law shall not interfere with, abrogate, annul, or repeal any ordinance or any rule, regulation, or permit previously or hereafter enacted, adopted, or issued pursuant to law; provided that, unless specifically excepted, where this Zoning Law imposes greater restrictions its provisions shall control.

- D. **SEPARATE VALIDITY.** If any section, subsection, paragraph, clause, or other provisions of this Law shall be held to be invalid, the invalidity of such section, subsection, paragraph, clause, or other provision shall not affect any of the other provisions of this Law.

- E. The following rules of construction of language shall apply to the text of this Law.
 - 1. Words used in the present tense include the future tense.
 - 2. Words used in the singular include the plural, and words used in the plural include the singular.
 - 3. The word “lot” includes the word “plot” or “parcel.”
 - 4. The word “person” includes an individual, firm or corporation.
 - 5. The word “shall” is always mandatory; the word “may” is always permissive.
 - 6. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
 - 7. A “building” or “structure” includes any part thereof.
 - 8. The phrases, “to erect,” “to construct,” and “to build” a building, all have the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.

§ 280.8 DEFINITIONS

The words or phrases as used in this Law are defined as follows:

ACCESSORY BUILDING: See “BUILDING, ACCESSORY.”

ACCESSORY USE: See “USE, ACCESSORY.”

AGRICULTURE, FOR CROPS: Any parcel of land used commercially for the raising of fruits, vegetables and the like, but not for the raising or keeping of animals.

AGRICULTURE, MANUFACTURE: Any parcel of land used for the processing of crops and livestock, such as a cheese factory, tannery, food processing, and the like.

AGRICULTURE, NURSERY: A wholesale or retail business which sells primarily trees, shrubs, plants and other landscaping materials and may sell related lawn and garden supplies and ornaments as an accessory use.

ANIMALS, RAISING OR KEEPING OF: Any parcel of land used for the raising of animals for commercial purposes, including livestock, horses, poultry, dairy cattle, bees, fur-bearing animals, and other such farm animals, OR for the raising and keeping of wild animals including poisonous animals, skunks, pigeons, fox, mink, birds and the like, BUT excluding pets and kennels.

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.

ANTENNA: A system of electrical conductors that transmit or receive telephone, television or radio frequency waves. Such devices shall include cellular, paging and personal communication services (PCS) and satellite dishes.

AQUIFER: An underground water bearing volume of permeable rock, sand or gravel.

AQUIFER PROTECTION OVERLAY DISTRICTS: Those areas as defined below which contribute water to the Village of Painted Post public and community water supply.

APOD #1: WELL HEAD PROTECTION AREA: The land area immediately around a well which contributes water to the public and community wells as shown on the Aquifer Protection Overlay District Map. For all community wells and existing public wells, this area is defined as a circle centered on the well with a two hundred (200) foot radius. For new public wells, water at the outermost boundary of the Wellhead Protection Area will reach the wells within a minimum of one-hundred (100) days.

APOD #2: AQUIFER RECHARGE AREA: The remaining aquifer area outside APOD #1 Wellhead Protection Area which contributes water to the Village of Painted Post public wells or other municipal wells.

APOD#3: WATERSHED TRIBUTARY AREA: The upland watershed which contributes water to APOD #2 Aquifer Recharge Areas as shown on the Aquifer Protection Overlay District Map.

ARCADE: A business offering one or more mechanical, electrical or electronic machine(s) or device(s) used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin, or for the operation or use of which a charge is made.

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

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

(Also see “STORY, HALF”).

AUTOMOBILE SALES AREA: A premises, including open areas other than a street or road and showrooms enclosed within a building, used for the storage, display or sale of new or used automobiles, trucks and cargo trailers.

AZIMUTH: The angular distance between true south and the point on the horizon directly below the sun. Values to the east of south (in the morning) shall be negative. Values to the west of south (in the afternoon) shall be positive.

BASEMENT: A story partly below finished grade, but having at least one-half of its height measured from floor to ceiling, but no less than four feet, above average finished grade. A basement shall be counted as one story determining the height of a building in stories. (Also see “CELLAR”).

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. A building includes attached deck(s) and porch(es).

BUILDING, ACCESSORY: A building detached from and subordinate to a principal building and used for purposes customarily incidental to those of the principal building. For example, a garage for one or two cars is permitted wherever residences (the principal use) are allowed.

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

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 attached by a party wall to another building normally of the same type on another lot, but having one side yard.

BUILDING GROUP: A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

BUILDING HEIGHT: The vertical distance measured from the average finished grade to the highest point of such building or structure.

BUILDING LINE: The rear line of the required front yard setback.

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 attached by a party wall to another building normally of the same type on another lot, but having one side yard. See “HOUSING, NON-TRANSIENT.”

BULK: A term used to describe size, volume, area, and shape of buildings and structures. Included in such description is the physical relationship of exterior walls or a building or structure’s location to lot lines, other

buildings and structures or other walls of the same building. All open spaces required in connection with a building, other structure or tract of land are also included in this term.

BULK, NONCONFORMING: That part of a building, other structure or tract of land which was lawfully existing prior to the adoption or amendment of this chapter but which does not conform to one (1) or more of the applicable building regulations of this Zoning Law by reason of such adoption or amendment.

CARRIER: A provider of communications service.

CELLAR: Any space in a building the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building. A cellar shall not be counted in determining the permissible number of stories. A cellar shall not be occupied as a dwelling unit. (Also see "BASEMENT").

CLUB, MEMBERSHIP: An organization catering exclusively to members and their guests, or premises and buildings for social, educational, recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required generally for the purposes of such club.

CO-LOCATION: The use of a communications tower by more than one carrier.

COMMERCIAL VEHICLE: A vehicle of more than one and one half ton capacity used for the transportation of persons or goods primarily for gain; or a vehicle of any capacity carrying any sign or lettering of a commercial nature exceeding one square foot in area.

COMMUNICATIONS TOWER: A structure on which transmitting and/or receiving antennae are located. This includes but is not limited to freestanding towers, guyed towers, monopoles, and similar structures.

- A. **FREESTANDING COMMUNICATIONS TOWER** - Freestanding lattice tower onto which antennas are affixed.
- B. **GUYED TOWER** - Lattice tower supported by wire anchors.
- C. **MONOPOLE** - A single pole of variable cross section onto which antennas are affixed.

COMMUNITY POLE: A sign owned and maintained by the Village Board or by a group of business owners as approved by the Village Planning Board and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the Village. Includes "monument sign."

CONTIGUOUS PARCEL: A tract of land under the control of the applicant or his agent that is not divided by any natural or manmade barriers such as existing roads, highways, railroad tracks, areas with slopes greater than thirty-five (35%), and rivers, and that is not totally bisected by any other water bodies.

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.

COVERAGE: That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures, but not including detached solar collectors used by solar energy systems.

DAY CARE CENTER: A facility duly permitted by the New York State Office of Children and Family

Services or successor for the care of three (3) or more persons away from their homes for more than three (3) but less than twenty-four (24) hours each day with or without compensation. This definition includes “children’s day care center” and “adult day care center.” A DAY CARE CENTER is also a facility providing day care services under an operating certificate issued by the NYS Department of Mental Health or successor. This does not include “family day care,” “nursery school,” or “day camp” as defined by the New York State Sanitary Code, a school program operated for the primary purpose of religious education, or a facility operated by a public school district.

DAY CARE, FAMILY HOME: A one family dwelling in which day care is provided for persons in accordance with NYS Office of Children and Family Services or successor definitions and regulations.

DISTRIBUTOR: The person, entity or agent or representative thereof responsible for placing and maintaining a newsrack in a public right-of-way including, without limitation, the grassed or paved curb area and sidewalks.

DRIVE-IN MOVIE: An open lot or part thereof, which appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

DWELLING, ONE-FAMILY: See “HOUSING, NON-TRANSIENT.”

DWELLING, TWO-FAMILY: See “HOUSING, NON-TRANSIENT.”

DWELLING, MULTI-FAMILY: See “HOUSING, NON-TRANSIENT.”

DWELLING GROUP: See “HOUSING, NON-TRANSIENT.”

DWELLING UNIT: One or more rooms connected together consisting of a , separate, independent housekeeping establishment for owner occupancy, rental or lease, that contains independent cooking, sanitary and sleeping facilities for one family. This shall include sectional, modular and standard designed manufactured home units, and residential designed manufactured home units provided they meet the standards of this law and the New York State Building and Fire Prevention Code. It shall not include motel, hotel or lodging establishments for transient occupancy, substandard mobile homes or trailers.

EASEMENT: A vested or acquired right to use land other than as a tenant for a specific purpose, such right being held by someone other than the owner who holds title to the land.

FAMILY: Any single person or group of persons who live together in a one dwelling unit and maintain a common household.

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 buildings and other structures or for other purposes - shall be the average elevation of all finished grade elevations around the periphery of the building, except that this average shall not exceed one-half (½) of the floor-to-ceiling height.

FLOOR AREA: The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of walls separating the buildings as defined by the NYS Fire Protection and Building Code.

GARAGE, SERVICE AND REPAIR: An enclosed building for the indoor repair of motor vehicles including

painting and the sale of parts and accessories. A junkyard or auto salvage yard is not to be construed as a garage.

GASOLINE FILLING STATION: An area of land, including structures thereon, or any building or part thereof, with pumps and storage tanks that is used primarily for the storage and retail sale of gasoline or any other motor vehicle fuel and for other uses accessory thereto. The sale of lubricants, motor vehicle accessories, washing (which does not require mechanical equipment), or otherwise servicing motor vehicles, are permitted accessory uses.

GRAVEL PIT: See “MINING.”

HAZARDOUS SUBSTANCES: All substances defined in 6NYCRR Part 597 and all hazardous wastes as defined in 6NYCRR Part 371.

HOME OCCUPATION: A business use conducted as an accessory use which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof, and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the occupant(s) of such dwelling unit, and in which not more than one (1) person not residing in such dwelling unit is employed on site. Home Occupations are either “off site” or “on site.”

HOME OCCUPATION, OFF SITE SERVICE: A home occupation in which the owner meets customers off premises or electronically and, thus, does not generate additional traffic. A distributorship whose primary function is the processing of orders for merchandise and which does not involve retail sales or a high volume of stock and merchandise on the premises may be deemed an off site home occupation, provided such use meets the intent and all standards of this section.

HOME OCCUPATION, ON SITE SERVICE: A home occupation in which the owner meets customers on premises or receiving a high volume of stock and merchandise and, thus, the business generates additional traffic.

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

HOTEL: See “HOUSING, TRANSIENT.”

HOUSE TRAILER: See “MOBILE HOME, SUBSTANDARD.”

HOUSING, NON-TRANSIENT: A building designed or used principally as the permanent living quarters for one or more families. Such housing is also known as a “residence” but shall not be deemed to include a motel, or hotel or other accommodations used for transient occupancy and shall include the following:

- A. **DWELLING, ONE-UNIT DETACHED** - A building containing one (1) dwelling unit only on one lot.
- B. **DWELLING, ONE-UNIT ATTACHED** - A building containing two (2) dwelling units on separate lots. This includes “zero-lot line” one unit homes.
- C. **DWELLING, TWO-UNIT** - A building containing two (2) dwelling units on one lot. This

includes “duplex.”

- D. DWELLING, MULTI-UNIT- A building or series of buildings comprising three (3) or more dwelling units with shared entrances and other essential facilities and services on one lot.
- E. DWELLING GROUP - A group of three (3) or more, but not over ten (10), attached one - or two-unit dwellings with common walls between.
- F. GROUP HOME - A one unit dwelling in which resides a group of mentally and/or physically challenged persons, not related by blood, marriage or adoption who maintain a common household as governed by state law. “Group home” includes “community residence.”
- G. ROOMING HOUSE - A one unit dwelling containing a common kitchen and dining facility, in which at least three (3) sleeping rooms are offered for rent, with or without meals. A “lodging house” and “boarding house” shall be deemed a “rooming house.”
- H. SHARED HOUSING -A one unit dwelling in which persons not related by blood, marriage or adoption live together and maintain a common household.
- I. TOWNHOUSE - A building consisting of three or more attached one unit dwellings each having separate entrances and common vertical walls on separate lots.

HOUSING, TRANSIENT - Any buildings that serve as principle lodging or residence for more than one transient individual that occupies the such building briefly and temporarily. Such housing shall include the following:

- A. BED & BREAKFAST- A one unit dwelling in which sleeping rooms are provided by the owner for compensation, for the accommodation of 15 or fewer transient guests and the entire service is included in one stated price. A “tourist home” shall be deemed a “bed & breakfast.”
- B. HOTEL - A building, or any part thereof, which contains living and sleeping accommodations for more than fifteen (15) transient occupancy for compensation, has a common exterior entrance or entrances and which may contain one (1) or more dining rooms.
- C. MOTEL - A building or group of buildings not over two stories in height containing individual living and sleeping accommodations for hire, 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. The term “motel” includes but is not limited to “auto court,” “motor hotel,” “motor court,” “motor inn,” “motor lodge,” “tourist court,” “tourist cabin” or “roadside hotel.”
- D. VACATION RESORT - Any area of land on which are located two or more cabins, cottages or group of buildings, containing living and sleeping accommodations hired out for compensation, which has a public lobby serving the guests, and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonably or otherwise.

JUNK YARD: An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scraps, used or salvaged building materials, or the

mantling, dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. This includes “auto salvage yard,” “dump,” “auto junkyard,” and “solid waste disposal facility.”

KENNEL: Any place at which there are kept four or more dogs or cats more than four months of age or any number of such animals that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LANDFILL, SANITARY: A designated area, where solid waste may be placed for disposal, under the direction and supervision of a designated person; which area is located and operated in compliance with the requirements of the State.

LOT: A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same. A lot shall abut and be accessible from a public or private street.

LOT, CORNER: A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

LOT COVERAGE: See “COVERAGE.”

LOT, DEPTH OF: The mean distance from the lot frontage to its rear line.

LOT LINE, FRONT: A lot line which is coincident with the right-of-way line of a public street or which is measured twenty (20) feet from the edge of the road surface of a private road.

LOT LINES: The lines bounding a lot as defined herein.

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

LOT WIDTH - The width along the building line.

LOW-PROFILE BUSINESS: A small business which is compatible with a residential area in the following respects:

- A. Is carried on by the proprietor and not more than three (3) paid employees.
- B. Has no more than three (3) clients or customers at one time, usually by appointment.
- C. Does not operate during the nighttime hours 10:00 p.m. to 8:00 a.m.
- D. Does not create undue traffic or parking problems.
- E. Does not require more frequent trash or garbage collection than residences in the same district.
- F. Does not create excessive noise, dirt, odor or electrical interference.

MANUFACTURED HOME, RESIDENTIAL DESIGNED: A single family dwelling built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, which meets or

exceeds the following criteria. This includes the term “double-wide.”

- A. The manufactured home has a minimum width over twenty (20) feet (multi-section)
- B. The manufactured home has a minimum of nine hundred (900) square feet of enclosed living area.
- C. The pitch of the roof has a minimum nominal 3/12 pitch; and has a type of shingle commonly used in standard residential construction.
- D. The exterior siding consists of vinyl or aluminum lap siding, wood, masonite, or other materials similar to the exterior siding commonly used in standard residential construction.
- E. All towing devices, wheels, axles, and hitches must be removed.
- F. The front of the dwelling is parallel to the street.
- G. Permanent landing and steps with handrails are required at each exterior doorway. The structure must include steps which lead to the ground level.

MANUFACTURED HOME, STANDARD DESIGNED: A single family dwelling built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, which does not meet the criteria of a Residential Designed Manufactured Home. This includes the term “single-wide.”

MOBILE HOME, SUBSTANDARD: A single family dwelling that is wholly, or in part, fabricated in an off-site manufacturing facility for installation or assembly at the building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of June 15, 1976.

MANUFACTURED/MOBILE HOME PARK: A contiguous parcel of land, which is planned and improved specifically for such a purpose, on which two (2) or more manufactured/mobile homes (with or without the wheels and axles in place) are located. Such a park consists entirely of manufactured/mobile homes, each located on a site leased or rented to its occupants who either own, rent, or lease the living unit as a permanent residence.

MINING: Excavation of earth materials for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal and/or the removal of such materials for sale other than what may be required in the erection of buildings on site.

MIXED USE: A building or a lot used for more than one permitted principal use.

MODULAR HOME: A dwelling unit constructed off-site, consisting of two or more segments and designed to be permanently anchored to a foundation, to become a fixed part of the real estate and which meets all State requirements. This includes the term “sectional home.”

MOTEL: See “HOUSING, TRANSIENT”.

NEWSRACK: Any self-service or coin-operated box, container, storage unit or other dispenser installed, used

or maintained for the display and distribution or sale of newspapers or other news or informational periodicals. This includes “honor box,” “newspaper box,” or “real estate box.”

NON-CONFORMING BULK: See “BULK, NONCONFORMING.”

NONCONFORMING USE: See “USE, NONCONFORMING.”

NURSERY SCHOOL: A non-public school organized for the purpose of providing regular daytime care or instruction for three or more children less than seven years of age for less than three hours per day, (two sessions may be held daily), as registered and certified by the NYS Education Department. This includes “day nursery” or “kindergarten” but does not include “day care center.”

NURSING OR CONVALESCENT HOME: A building where persons are lodged and furnished with meals and long-term or permanent nursing care as defined by the NYS Department of Social Services or successor. This definition includes “assisted care living units,” “health care services facility,” and “home for the aged” but does not include “hospital,” or “halfway home.”

PARKING SPACE: An off-street space available for the parking of one motor vehicle exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

PERSONAL SERVICE ESTABLISHMENTS: Establishments which provide services to an individual consumer for compensation including but not limited to barber shops, beauty shops, shoe repair shops and other uses of a similar nature.

PETROLEUM BULK STORAGE REGULATIONS: New York State’s standards and regulations of petroleum administered by the New York State Department of Environmental Conservation as defined in 6NYCRR Parts 611 through 614.

PLANNED DISTRICT: One or more commercial, residential or industrial uses proposed as a unit, in conformance with Article VI.

PLANNED RESIDENTIAL DISTRICT: A form of residential development characterized by a unified site design and providing density increases, a mix of building types and common open space. It permits the calculation of densities over the entire parcel and involves additional requirements as set forth in Article V.

PREMISES: A lot together with all the buildings and uses thereon.

PROFESSIONAL OFFICE: An office operation involving the practice of or associated with medicine, dentistry, law, architecture, engineering and similar fields.

RESIDENCE: A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. “Residence,” therefore, includes all. non-transient housing. However, “residence” shall not include the following:

- A. Transient housing, such as hotels, and motels.
- B. That part of a mixed use which is used for any non-residential uses.

RIDING ACADEMY: Any establishment where horses are kept for riding, driving or stabling for compensation.

RIGHT-OF-WAY: The property under ownership or easement normally used for the movement of vehicles, including but not restricted to the pavement area.

ROADSIDE STAND: A light structure with a roof, either attached to the ground or movable, used for the sale of local produce on a seasonal basis.

SATELLITE DISH: An antenna capable of receiving communications from space. Includes “satellite dish.”

SETBACK: The required distance in feet between any building and any lot line of the lot on which it is located.

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, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organizations, campaign, drive, movement, or event which is temporary in nature.

This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by law or by federal, state, county, town or Village authority.

SIGN, BUSINESS: A “sign” which directs attention to a business or profession conducted on the premises. A “For Sale” sign or a “To Let” sign relating to the property on which it is displayed shall be deemed a “business sign.”

SIGN, DIRECTIONAL: A “sign” which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than on the premises.

SIGN, DIRECTLY ILLUMINATED: A sign which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity or radio activated or gaseous material or substance.

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

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. All

faces of the sign shall be counted in computing the area.

SIGN TEMPORARY: A sign which directs attention to a special activity or entertainment to be conducted for a limited time only.

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 thirty years, regardless of any division of such land into parcels for the purpose of financing.

SOLAR COLLECTOR: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy, that contributes significantly to a structure's energy supply, and components for containing and supporting such device.

SOLAR COLLECTOR, DETACHED: A solar collector, as defined herein, physically detached from the structure for which solar energy is to be supplied.

SPECIAL USE PERMIT: The authorization of a particular land use which is permitted in the Village of Painted Post Zoning Law, subject to requirements as described in Article XII 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.

STORAGE FACILITY, INDOOR: A building or grouping of buildings designed and constructed for the common, long-term and/or seasonal interior storage of individual or business property by persons other than the property owner. The wholesale storage and/or transfer of goods by commercial enterprises is not included in this definition. See also "TRUCKING TERMINAL" and "WAREHOUSE."

STORAGE FACILITY, OUTDOOR: A lot designed for and/or used for the common, long-term and/or seasonal outdoor storage of individual or business property by persons other than the property owner.

STORAGE YARDS FOR EQUIPMENT: A lot designed for and/or used for the long-term and/or seasonal outdoor storage of business property by the property owner.

STORY: That part of a building comprised between a floor and the floor or roof next above it. (See "ATTIC," "BASEMENT," and "CELLAR").

STORY, HALF: That portion of a building situated above a full story and having a least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half the floor-to-ceiling height of the story below.

STREET, DEAD-END - A street or portion of a street with only one vehicular access.

STREET, PRIVATE - A road, serving not more than two residential lots, built to Village specifications and that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Village. This includes "private road."

STREET, PUBLIC - A right-of-way for vehicular traffic, whether designated as a road, highway, thoroughfare, parkway, street, avenue, boulevard, lane, place, alley, or however otherwise designated, that is built to Village

specifications and dedicated to the Village for maintenance, but not including a private street This includes “road.”

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, platforms, towers, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time), and the like.

STRUCTURE, ACCESSORY - A structure detached from and subordinate to a principal building on the same lot used for purposes customarily incidental to those of the principal building. Accessory structures include but are not limited to, portable, demountable or permanent detached enclosures, shade structures, carports, garages, and storage sheds. Accessory structures are non-habitable, have no sewer or water utilities and exceed 120 sq. ft.

SWIMMING POOL: An artificial pool of water having a depth at any point of more than eighteen (18) inches and a surface area of greater than one hundred (100) square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment.

TOWN HOUSE: See, “HOUSING, NON-TRANSIENT.”

TRAILER, HOUSE: See, “MOBILE HOME, SUBSTANDARD.”

TRAILER - A structure that is:

- A. Intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and
- B. is designed for temporary use as sleeping quarters, but does not satisfy one or more of the definition criteria of a manufactured home as defined in this law. This includes “travel trailer” and “camper.”

USE: This term is employed in referring to:

- A. The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained, or conducted.
- B. Any occupation, business activity, or operation conducted in a building or other structure, or on land.

USE, ACCESSORY : A use customarily incidental and subordinate to the principal use or building. Accessory uses may occur as an open land use, as a separate building(s) or within the principal building. An accessory use does not have any greater impact on the environment than the principal use.

USE, NONCONFORMING: Any use of a building, other structure or tract of land which was lawfully existing prior to the adoption or amendment of this chapter but which does not conform to the use regulations for the

district in which such use is located by reason of such adoption or amendment.

USE, PRINCIPAL: The main or primary permitted use of the lot or structure.

VACATION RESORT: See “HOUSING, TRANSIENT.”

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

VARIANCE, USE: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VETERINARY HOSPITAL: A building for the treatment of animal illness including kennels or other similar facilities for boarding animals.

WAREHOUSE: A structure or premises, for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation, whether it is in public or private ownership and use.

WAY: A thoroughfare, however designated, permanently established for passage of persons or vehicles.

YARD, FRONT: A yard extending along the full length of the front lot line between the side lot lines, not including any land within the right-of-way of public or private streets.

YARD, REAR: A yard extending along the full-length of the rear lot line, between the side lot lines, not including any land within the right-of-way of public or private streets.

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 bulk regulations of the 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).

Section 280.9	(Reserved)
Section 280.10	(Reserved)
Section 280.11	(Reserved)
Section 280.12	(Reserved)
Section 280.13	(Reserved)

**ARTICLE III
ESTABLISHMENT OF DISTRICTS**

§ 280.14 APPLICATION OF REGULATIONS - Except as otherwise provided:

- A. No building or land shall hereafter be used or occupied and no building or addition shall be erected, moved or altered unless in conformity with the regulations specified for the district in which it is located.
- B. No buildings shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein, for the district in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another building.
- D. No lot shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than required by this Law.
- E. No building or occupancy permit shall be issued unless the Enforcement Officer is satisfied that the land or parcel in question has no natural characteristics which would endanger the health, safety or welfare of the resident, or others. Such natural characteristics may include flooding, inadequate percolation, excessive slope or other characteristics affecting on-site sewage disposal and the general use of the property.

§ 280.15 NAMES OF ZONING DISTRICTS

- A. In order to fulfill the purpose of this Zoning Law, the Village of Painted Post is divided into the following zoning districts:

- LDR - Low density residential
- MDR - Medium density residential
- UCR - Urban Center residential
- UC - Urban Center
- B - Business
- I - Industrial

- B. The following floating zones shall be applicable anywhere that the stated conditions and criteria are met:

- APOD - Aquifer Protection Overlay District
- FPPD - Flood Plain Protection District
- PRD - Planned Residential District
- PCD - Planned Commercial District
- PDD - Planned Development District

C. Low Density Residential (LDR) Intent:

To delineate those existing substantially undeveloped portions of the Village that exhibit a rural character due to the lack of services and serious natural limitations to development, to preserve a cohesive network of open space, stream corridors, wetlands, steep slopes and other natural habitats and to limit the use of the remaining buildable land to less intensive, low density residential, agricultural, forestry, recreational and mixed uses in conformance with the natural and man-made limitations.

D. Medium Density Residential (MDR) Intent:

To delineate those areas where one-unit detached dwellings are located on large lots (12,000 square feet or larger) with public sewer and water services currently or potentially provided, while minimizing strip frontage development.

E. Urban Center Residential (UCR) Intent:

To delineate those areas suitable for the development of varied dwelling units, such as one and two-unit detached houses, townhouses and multi-unit dwellings while maintaining the style and character of the older Village residential areas (minimum lot size: 6,500 square feet) .

F. Urban Center (UC) Intent:

To delineate areas suitable for a mixture of housing, such as one and two-unit dwellings, townhouses and multi-unit dwellings, with compatible office development creating a low intensity, human-scale urban environment (minimum lot size: 6,500 square feet), compatible with the style and character of the older Village businesses and residences.

G. Business (B) Intent:

To delineate those areas suited for commercial use that serve primarily the residents of the community.

H. Industrial (I) Intent:

To delineate those areas in the Village that are appropriately suited to manufacturing, process and industrial uses, and to preserve these areas for such uses and related uses that will not create a detrimental or significant adverse impact on the environment and the welfare of the community.

I. Aquifer Protection Overlay District. See Article III. Section 280-21

J. Flood Plain Protection District (FPPD) Intent: See Local Law No. 1 for 2000, Local Law for Flood Damage Prevention (as amended.)

K. Planned Residential District (PRD) Intent. See Article V.

- L. Planned Commercial District (PCD) Intent: See Article VI.
- M. Planned Development District (PDD) Intent: See Article VI..

§ 280.16 OFFICIAL ZONING MAP

The location and boundaries of these zoning districts are shown on the map designated “Official Zoning Map of the Village of Painted Post”, adopted on July 9, 1984 and certified by the Village Clerk. This map together with everything shown on it and all its amendments is hereby adopted and is declared to be part of this Zoning Law.

§ 280.17 INTERPRETATION OF DISTRICT BOUNDARIES

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

- A. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, or watercourses, the boundaries shall be construed to be the same as these lines. Such boundaries shall be automatically moved if a centerline or right-of-way line of a street, highway, public or watercourse is moved a maximum of fifty (50) feet from the initial boundaries established by the Zoning Map which is part of this Zoning Law.
- B. Where district boundaries are indicated as approximately following the Village boundary line, property lines, lot lines, or their projections, the boundaries shall be construed to be the same as such lines or their projections.
- C. Where district boundaries are indicated to be approximately parallel to the Village boundary line, property lines, lot lines, right-of-way lines, or their projections, the boundaries shall be construed as being parallel to them and at distances as indicated on the Zoning Map or as shall be determined by 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 thirty (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 on the map, but in no instance will a district depth be less than the specified minimum lot depth shown for each district in the Density Control Schedule.

§ 280.18 USE REGULATIONS - SCHEDULE OF USES TABLE

The following use regulations apply to the principal and accessory uses as listed in the Schedule of Uses Table.

SCHEDULE OF USES TABLE

Abbreviations:

- | | |
|----------------------------------|----------------------------------|
| P - Permitted | LDR - Low density residential |
| SP - Site Plan Approval Required | MDR - Medium density residential |
| SU - Special Use Permit Required | UCR - Urban Center residential |
| Blank - Not Permitted | UC - Urban Center |
| | B - Business |
| | I - Industrial |

<u>BUSINESS USES</u>	LDR	MDR	UCR	UC	B	I	PD
Arcade					SU		
Automobile repair garage					SP	SP	
Automobile sales area					SU	SU	
Bar or night club					SP		
Bowling alley					SP	SP	
Car washing station						SU	
Commercial vehicle					P	P	SP
Convenience/Mini-market w/ gas					SU	SU	
Convenience/Mini-market w/o gas			SP	SP	SP	SP	SP
Day care center	SU	SU	SU	SU	SU	SU	SU
Day care, family home	SU	SU	SU	SU	SU		SU
Drive-in movie						SP	
Equipment rental or sales yard					SU	P	
Funeral home		SU	SU	SU	SU		SU
Gasoline filling station					SU	SU	
Grocery store			SP	SP	SP	SP	
Home occupation - Off-site	P	P	P	P	P		SP
Home occupation - On-site	SU	SU	SU	SU	SP		SU
Laundry or dry cleaning plant					SU	SU	
Newsrack	SU	SU	SU	SU	SU	SU	SU
Low-profile business				SU	SP	SP	SP
Mixed use	SU	SU	SU	SU	SU	SU	SU
Newspaper offices and printing shops					SU	SU	
Offices - general				SU	SP	SP	SP
Offices - one practicing professional in existing building	SU	SU	SU	SU	SP	SP	SP

Offices - more than one practicing professional				SP	SP	SP	SP
Personal service establishments				SU	SU		SU
Planned commercial districts					SP	SP	SP
Restaurant					SP	SP	SU
Retail business or service, not otherwise specifically mentioned herein					SP	SP	
Riding academy							
Roadside stand with peddler's license					P	P	
School conducted for profit					SU		
Self-service laundry					SU		
Storage yards for equipment					SP	SP	
Theater or concert hall					SP	SP	
Veterinarian office, animal hospital or kennels					SP	SP	
Wholesale business or service, not otherwise specifically mentioned herein					SP	SP	SU
INDUSTRIAL USES	LDR	MDR	UCR	UC	B	I	PD
Contractors yard and equipment						SP	
Manufacture, fabrication, extraction, assembly, warehousing and other handling of material						SP	SP
Mining							
Mixed use	SU	SU	SU	SU	SU	SU	SU
Research laboratories					SP	SP	SP
Storage facility, indoor					SP	SP	SU
Storage facility, outdoor					SU	SU	
Trucking, wholesale warehouse terminals						SP	SU
RESIDENTIAL USES	LDR	MDR	UCR	UC	B	I	PD
Mixed use	SU	SU	SU	SU	SU	SU	SU
Housing, Non-Transient							
Dwelling, one-unit, detached includes Residential Manufactured Home, Sectional Home, Modular	P	P	P	P			SP
Cluster Development	SP	SP	SP	SP			SP
Dwelling, one-unit, attached	P	P	P	P			SP
Dwelling, two-unit	P	P	P	P			SP
Dwelling, multi-unit			SU	SU			SP
Group home	SP	SP	SP	SP			SP

Manufactured home park							
Manufactured home, substandard							
Planned Residential District	SP	SP	SP	SP			SP
Rooming house			SU	SU			SU
Shared housing	P	P	P	P			SP
Standard Designed Manufactured Home (“single-wide”)			SU				
Housing, Transient							
Bed & Breakfast	SU	SU	SU				SU
Hotel					SP		SU
Motel					SP		SU
Nursing or convalescent home		SP	SP	SP	SP	SP	SP
Vacation Resort							
GENERAL USES	LDR	MDR	UCR	UC	B	I	PD
Accessory use/building/structure on the same lot	P	P	P	P	P	P	SP
Accessory use/building/structure on a separate lot	SU	SU	SU	SU	SU	SU	SU
Agriculture, for crops					SU	SP	
Agriculture, manufacture						SU	SU
Agriculture, nursery					SP		
Animals, raising or keeping of							
Cemetery		SP	SP	SP	SP	SP	SP
Church or other place of worship		SP	SP	SP	SP	SP	SP
Club, membership					SU	SU	
Communication Tower (new)						SP	SP
Communication Tower (co-location on existing tower)	SU	SU	SU	SU	SU	SP	SP
Crematory					SP	SP	SP
Cultural facilities (library, art gallery, museum, etc.)		SP	SP	SP	SP	SP	SP
Golf course or country club		SP	SP	SP	SP	SP	SP
Hospital or sanitarium		SP	SP	SP	SP	SP	SP
Institutional or philanthropic use		SP	SP	SP	SP	SP	SP
Nursery school		SU	SU	SU	SU		SU
Private, public or parochial school		SU	SU	SU	SU	SU	SU
Public utility or transportation use							

a) office					P	P	SP
b) repair, service and storage					SU	P	SP
Satellite dish (<3' in diameter ground-mounted installations)		P	P	P	P	P	SP
Satellite dish (>3' in diameter and/or roof-mounted installations)		SU	SU	SU	P	P	SU

§ 280.19 ACTIVITIES PROHIBITED IN ALL DISTRICTS

- A. No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.
- B. The practice of soil stripping shall be limited to incidental filling of areas within the Village to bring them up to grade, except insofar as is necessary or incidental to excavations for cellars and other structures.
- C. No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.
- D. Storage of material in a manner that facilitates the breeding of vermin or endangers health in any way.

§ 280.20 FIRE, SAFETY AND SANITATION REGULATIONS

- A. No building except a silo or church shall be constructed either over three (3) stories or thirty-five (35) feet in height unless built of noncombustible materials.
- B. A building which has been damaged to the extent that renders it uninhabitable, unsafe or unusable for its intended purpose, must be reconstructed or razed in a fashion which leaves the site clean and safe, as determined by the fire chief or enforcement officer, within three (3) months.
- C. All buildings shall be in conformance with applicable building construction and fire prevention codes.

§ 280.21 AQUIFER PROTECTION OVERLAY DISTRICTS

- A. **STATEMENT OF PURPOSE** The majority of Village of Painted Post residents depend on public wells which draw water from the unconsolidated sand and gravel aquifer underlying the Canisteo, Conhocton and Tioga River valleys. This aquifer is replenished in part by rainfall within the watershed and in part by the rivers. The Village of Painted Post, with its residential, commercial, industrial and other uses, overlies the recharge area for its public water supply.

Contamination can be contributed to the ground water by improper handling and disposal of hazardous substances, petroleum products and other sources and by accidental spills along the nearby roads and railroads which can lead to public and private losses and costs, business interruptions, damage to facilities and utilities.

The purpose of this law is to protect the public health, safety, and welfare of the people of the Village of Painted Post by minimizing continued and future water supply contamination without applying burdensome regulations on land use. This purpose will be accomplished by regulating certain uses that have been determined to be potentially damaging to groundwater quality, and by establishing minimum documentation and submittal requirements to ensure that other uses will not adversely affect the groundwater and quantity.

B. REGULATIONS APPLICABLE IN ALL APOD'S

1. **Permitted Uses.** Any use permitted in the portions of the APODs so overlaid shall be permitted subject to all the provisions of this Section. In any cases where conflicts arise between these supplemental requirement and any other existing requirement, the more restrictive shall apply.
2. **Discharge of hazardous substances.** The discharge or disposal of any hazardous substance, petroleum, or radioactive material is prohibited, except as allowed by a valid permit per regulations promulgated under the NYS Environmental conservation Law Articles, 1,3,8,15,17,19,23,27,52, and 70 and the NYS Public Health Law Section 225 and amendments thereto. This includes:
 - A. **SEPTIC SYSTEM CLEANERS:** The use of septic system cleaners which contain toxic substance or hazardous materials.
 - B. **DISCHARGE TO SEPTIC TANKS:** The disposal of toxic substances or hazardous materials by means of discharge to a septic system.
 - C. **LAND SPREADING:** Land spreading of septic waste without a valid permit from NYSDEC.
 - D. **LEAKS OR SPILLS:** Any spill, leak, or discharge or other release to the environment, actual or suspected, must be reported to the New York State Department of Environmental Conservation Spill Hotline (800-457-7362) pursuant to New York State Chemical Bulk Storage Regulations (6NYCRR Part 595) and Petroleum Bulk Storage Regulations (6NYCRR 611-614), within two hours of the release.
3. **Spill Response.** Should a spill occur, the owner and/or operator must take immediate action to stop the spill and restore the environment in accordance with the Village of Painted Post Emergency Spill Response Plan.
4. **Production of Hazardous Materials.** Any principal use that is the production or processing of any hazardous material or toxic substance shall be prohibited.

5. **Snow Disposal.** The dumping or disposal of snow or ice collected off site from roadways or parking areas into any watercourse shall be prohibited.
6. **New APODS.** Upon delineation, any new or revised Aquifer Protection Overlay District boundaries within the Village of Painted Post shall be subject to all applicable rules and requirements established herein.

C. REGULATIONS APPLICABLE IN APOD #1:

1. Prohibitions.

- A. **OPEN STORAGE:** The open storage of pesticides, herbicides, or fungicides. All other storage of such material is also prohibited unless authorization has been obtained from the New York State Department of Environmental Conservation as provided in the New York Environmental Conservation Law.
- B. **SOLID WASTE DISPOSAL FACILITY:**
- C. **BULK STORAGE:** The bulk storage of coal or salt, except in a water-tight structure constructed on an impervious material.
- D. **SNOW DISPOSAL:** The dumping or disposal of snow or ice collected off site from roadways or parking areas.
- E. **MINING:** All mining unless permitted by New York State Department of Environmental Conservation.

2. Other Regulations .

- A. **UTILITIES:** All new development shall be served by sewer and water.
- B. **STORMWATER MANAGEMENT:** For any new development proposing stormwater management systems, such systems shall be designed to filter and remove contaminants from the collected runoff in accordance with NYSDEC and Village stormwater management guidelines.

D. REGULATIONS IN APODS 2 AND 3:

1. Prohibitions .

- A. **OPEN STORAGE:** The open storage of pesticides, herbicides, fungicides and fertilizers within one hundred (100) feet linear distance of any watercourse.
- B. **SALT:** The open storage of salt within one hundred (100) feet linear distance of any watercourse.

2. Other Regulations .

- A. **HAZARDOUS MATERIALS STORAGE COMPLIANCE:** All commercial and

industrial uses and home occupations shall comply with all local, state and federal requirement concerning storage, use and disposal of toxic substances, hazardous materials and hazardous wastes.

- B. **HAZARDOUS MATERIALS USE:** All commercial and industrial uses and home occupations shall provide to the Village code enforcement officer lists of all toxic substances, hazardous materials or hazardous wastes known to be used or stored on a lot together with sufficient detail to apprise the Village of the method of storage and the amount of toxic substances, hazardous materials, or hazardous wastes on the lots.
- C. **TIME FRAME:** In the case of existing uses, this information shall be supplied within six (6) months of enactment of this law. In the case of proposed use, this information will be supplied as part of the plans prepared for site plan approval.
- D. **PETROLEUM BULK STORAGE REGISTRATION:** Petroleum bulk storage facilities installed above or below ground shall comply with New York State Department of Environmental Conservation requirements.
- E. **ABANDONED WELLS:** All abandoned wells shall be properly closed to prevent groundwater contamination.
- F. **CHEMICAL APPLICATIONS:** Application of pesticides, herbicides, fungicides or chemical fertilizers: Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.
- G. **BUFFERS:** Establishment or protection of buffers/wetlands along waterways: All land owners are encouraged to establish or maintain permanent vegetated buffers and/or wetlands along waterways including creeks and swales to filter water from the adjacent land before entering the stream. Recommended buffer width shall be one-hundred (100) feet, depending on nature of the streambank and adjacent land use.
- H. **OUTSIDE STORAGE:** Any outside storage area shall be designed so as to prevent seepage and runoff from entering the ground-water or any watercourse.

- § 280.22 (Reserved)
- § 280.23 (Reserved)
- § 280.24 (Reserved)
- § 280.25 (Reserved)

**ARTICLE IV
AREA AND BULK REGULATIONS - DENSITY CONTROL**

§ 280.26 PURPOSE

In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Article.

§ 280.27 BUILDABLE LAND CALCULATIONS

Density of a subdivision is calculated on net acreage, not gross acreage, of buildable land according to the following guidelines:

A. **UNBUILDABLE LAND.** The subdivider shall identify and subtract all acreage considered to be unbuildable as follows:

1. Steep slopes twenty-five (25%) or greater
2. Floodways as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as amended
3. Wetlands, including New York State designated wetlands, those regulated by the US Army Corps of Engineers and those on the National Wetlands Inventory
4. Lands covered by water bodies
5. Aquifer Protection Overlay Districts #1 and #2 as defined by the Village of Painted Post Zoning Law
6. Stream corridors (50' setback from each streambank)

B. **DENSITY CALCULATIONS.** The subdivider shall then calculate the acreage that is determined to be buildable and apply the bulk density control schedule minimum square footage per dwelling units or principal buildings as defined in Article IV of the Village Zoning Law to the buildable acreage. All density values shall be rounded to the nearest whole number of dwelling units or principal buildings.

§ 280.28 DENSITY CONTROL SCHEDULE (AREA AND BULK SCHEDULE)

The attached schedule of density control regulations is hereby adopted and declared to be part of this Zoning Law and is hereinafter referred to as the "Density Control Schedule."

Village OF PAINTED POST
280.28 Density Control Schedule* (Area bulk Schedule)

Use	Zoning District	Minimum Land Area Per Dwelling Unit (Sq. Ft.)	Minimum Land Area Per Principal Use (Sq. Ft.)	Minimum Lot Width at Bldg. Line	Minimum Yard Dimensions			Maximum Lot Coverage (Inc. All Accessory Bldgs.	Maximum Stories	Maximum Height
					Front	Side	Rear			
Residential	LDR	87,120 (2 acres)	-	100	30	10	25	10%	3	35'
	MDR	12,000	-	100	30	10	25	30%	3	35'
	UCR	6,500	-	65	30	6	25	30%	3	35'
	UC	6,500	-	65	30	6	25	30%	3	35'
Non-	LDR	-	174,240 (4 acres)	100	30	10	25	10%	3	35'
Residential	MDR	-	13,000	100	30	10	25	30%	3	35'
	UCR	-	8,400	75	30	10	25	30%	3	35'
	UCR	-	8,400	75	30	10	25	30%	3	35'
	B	-	5,000	50	30	10	25	30%	2	25'
	I	-	15,000	100	50	25	50	30%	5	65'

*These density control regulations can vary with uses that require site plan review. Each Planned Commercial District, Planned Development District, Cluster Development and Planned Residential District will be reviewed on an individual basis using the above schedule as a guide.

§ 280.29 **CORNER LOTS**

Wherever a side or rear yard is adjacent to a street, the standards for front yards shall apply.

§ 280.30 **PROJECTIONS INTO REQUIRED YARDS**

- A. The following projections into required yards may be permitted:
 - 1. Open fire escape - four feet into side or rear yards
 - 2. Awning, movable canopies and overhangs - six (6) feet into any yard
 - 3. Cornices, eaves, insulation walls and roofs and other similar architectural features - three feet into any yard
 - 4. Apparatus needed for the operation of active or passive solar energy systems, including detached solar collectors, solar reflectors, piping or duct work, and insulation necessary for efficient utilization thereof.
- B. Any open or enclosed porch or attached carport or garage shall be considered a part of the building in the determination of the size of the required yard or lot coverage. Non-roofed paved terraces shall not be considered a part of the building.
- C. Accessory uses, structures and buildings may be located in accordance with Section 280.106

§ 280.31 **COMPLIANCE WITH MAXIMUM AVERAGE RESIDENTIAL DENSITY**

- A. In all districts where residences are permitted, a lot held in a single ownership may be improved for residential use according to the minimum lot size per dwelling unit and bulk regulations for each district as set forth in the Density Control Schedule, provided that there shall be no more than one principal building and use on each lot. If two or more principal residential structures are located on the same lot, the maximum average density requirement must be complied with and future partition of the lot must be anticipated by providing adequate width and yards.
- B. A residential lot of required or larger than required size as set forth in this Zoning Law shall not be reduced in size for transfer of ownership if such lot so subdivided will form one or more lots which shall not be in compliance with the requirements for the maximum average residential density for the district in which such lot or lots are situated, except as provided in Article V.

§ 280.32 **SIDE YARDS FOR MULTI-FAMILY DWELLING UNITS**

Side yards for semi-detached or townhouses and multi-family dwellings units, where permitted, shall be required at the ends of the total structure only.

§ 280.33 **DISTANCE BETWEEN PRINCIPAL BUILDINGS ON SAME LOT**

No detached principal building shall be closer to any other principal building on the same lot than the average heights of said building.

§ 280.34 EXCEPTIONS TO FRONT YARD REQUIREMENTS

If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth. If there are dwellings on both abutting lots with front yards greater than the required depth for the district, or if there is a dwelling on one abutting lot with a front yard greater than the required depth for the district, the front yard for the lot shall be determined by averages as specified.

§ 280.35 GENERAL EXCEPTION TO HEIGHT REGULATIONS

Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, solar energy equipment and other similar objects not used for human occupancy are not subject to the building height limitations of this Law.

§ 280.36 STANDARDS FOR MIXED USES

In all districts where mixed uses are permitted, a lot held in single ownership may be improved for a mixed use. The lot must meet at least one minimum lot size, as required for each of the permitted uses in a mixed use, whichever is largest. The lot must also accommodate all requirements for each of the uses, such as parking, buffering, coverage, etc. The building group, as a unit, must meet all setbacks.

- § 280.37 (Reserved)
- § 280.38 (Reserved)
- § 280.39 (Reserved)

**ARTICLE V
PLANNED RESIDENTIAL DISTRICT**

§ 280.40 INTENT

The provisions of this Article are intended to permit and encourage the development of well-planned, high density, residential neighborhoods or groups of residences on sites larger than normal building lots. To give the site planner maximum freedom, more intensive use of land may be permitted, and the coverage, height, setback and other requirements may be varied under circumstances which will ensure more imaginative use of a building site than can be achieved under the other regulations of this Law. This district may contain both individual building sites and common property which is planned and developed as a unit. The Planned Residential Development shall be considered a rezoning and shall be subject to all procedures and requirements set forth in this Article and Article VIII.

§ 280.41 USES

The following uses and their accessory uses may be permitted subject to site plan approval by the Village Planning Board:

- A. Single-family dwellings (detached and attached), multi-family dwellings, rooming and boarding houses
- B. Churches, parish houses, convents
- C. Professional offices, funeral homes, banks
- D. Public and parochial schools, public libraries, hospital and municipal buildings
- E. Private fraternities, societies, or clubs

§ 280.42 STANDARDS GOVERNING PLANNED RESIDENTIAL DISTRICTS

Any development proposal to be considered as a planned residential district shall conform to the following standards, which shall be regarded as minimum requirements, in addition to all applicable standards in other sections of this Law.

- A. This provision shall apply only to land designated as LDR, MDR and MDR/o which shall be a contiguous parcel ten (10) acres in size. Where the applicant can demonstrate that his holdings will meet the objectives of this Article, the Village Board may consider projects with less acreage.
- B. The gross density of any parcel shall not exceed twelve (12) dwelling units per acre.
- C. All undeveloped lands that are not included in required yard areas shall be designated for open space purposes.
 - 1. When such development is proposed adjacent to any existing residence or residential area, a buffer of at least one hundred fifty (150) feet in width shall be maintained within the proposed development along any lot line that abuts existing residential development. The one hundred fifty (150) foot buffer may be developed consistent with the provisions

for the zoning district within which the land is situated.

2. All development shall meet the following standards:

A. YARD REQUIREMENTS:

- Front Yard - Minimum 20 feet
- Side Yard - Minimum 10 feet
- Rear Yard - Minimum 25 feet

No accessory building, including unattached garages, shall be nearer than ten (10) feet of any lot line in the required rear or side yard and shall not be located in any required front yard except as specified in Section 9.6.4.

- B. Maximum building height shall be five (5) stories or sixty (60) feet whichever is the lesser.
- C. Maximum site coverage of all buildings and structures including accessory buildings shall be 40% of the lot area, such percentage to be calculated on the basis of the total project area.
- D. There shall be no more than eight (8) townhouse units in any contiguous building group.

3. MINIMUM DWELLING UNIT SIZE.

- A. Efficiency - 550 square feet
- B. One Bedroom - 700 square feet
- C. Two Bedroom - 850 square feet
- D. Three Bedroom- 1,000 square feet

An additional one hundred twenty (120) square feet shall be added for each additional bedroom.

§ 280.43 PROCEDURES FOR ESTABLISHING A PLANNED RESIDENTIAL DISTRICT

- A. A developer or his authorized agent may petition the Village Planning Board for concept site plan review, as defined in Section 280.79, prior to submitting a site plan.
- B. An applicant for a planned residential district shall comply with all procedures and requirements of Article VIII, Site Plan Review Process, prior to consideration of the rezoning by the Village Board of Trustees.
- C. Upon receipt of the site plan approval by the Planning Board, the Village Board of Trustees shall advertise and conduct the required public hearing on the rezoning request.
- D. A decision on the rezoning shall be rendered by the Village Board of Trustees and the applicant

shall be notified of such decision as specified in Article XIII.

§ 280.44 **SPECIAL PROVISIONS APPLYING TO THE PLANNED RESIDENTIAL DEVELOPMENT (PRD) DISTRICT**

- A. The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or be a group of individuals or corporations. An application must be filed by owners of all the property included in a project. In the case of multiple ownership, the Approved Plan shall be binding on all owners.

- B. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of such common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.

- C. For the purposes of regulating development and use of property before and after initial construction and occupancy, any changes in the approved site plan shall be processed as a new site plan l. Properties lying in the PRD are unique and shall be so considered by the Village Planning Board when evaluating these requests; adherence to the intent and function of the planned unit shall be of primary importance.

- § 280.45 (Reserved)
- § 280.46 (Reserved)
- § 280.47 (Reserved)
- § 280.48 (Reserved)
- § 280.49 (Reserved)

**ARTICLE VI
PLANNED DISTRICTS**

§ 280.50 INTENT

This Article is intended to provide an opportunity for centers of commercial activities, small light industrial activities, planned residential development, and campus style, professional office/research complexes without causing detrimental effects to neighboring uses or the health, safety and general welfare of the community through the greater efficiencies that are associated with a larger-scale planned project. The planned development shall be considered a rezoning and shall be subject to all procedures and requirements set forth in this Article and Article VIII.

§ 280.51 PERMITTED USES

A. Planned Commercial District (PCD).

All uses permitted in the Business zone (B) as specified in Section 280.18 Use Regulation Table.

B. Planned Development District (PDD). Permitted and conditional uses allowed in the PDD shall be as specified in Section 280.18 Use Regulation Table.

§ 280.52 STANDARDS GOVERNING PLANNED DISTRICTS

Any development proposal to be considered as a planned commercial district shall conform to the following standards, which shall be regarded as minimum requirements:

A. APPLICABILITY.

1. **Planned Commercial District (PCD).** This provision shall apply only to lands situated in whole or in greater part in an existing Business (B) or Industrial (I) District.
2. **Planned Development District (PDD).** This provision shall apply to lands situated in whole or in greater part in an Urban Center (UC) District or Industrial (I) District.

B. RESIDENTIAL DEVELOPMENT. See Article V Planned Residential District (PRD) for special provisions which apply to the residential component of the Planned District.

C. MINIMUM SIZE. - This provision shall apply only to lands situated in whole or in greater part in an existing Business (B) or Industrial (I) District. Such land shall be a contiguous parcel, a minimum of four (4) acres in size and shall have a minimum of 250' of frontage along a major road and a minimum depth of 200'. Adjacent property owners may petition jointly if their aggregate holdings meet these requirements and they agree to a coordinated development plan.

D. DIMENSIONS. The dimension standards outlined in the density control schedule may be varied subject to site plan review process by the Village Planning Board.

E. LOT COVERAGE. - The maximum lot coverage by all buildings, and structures including accessory buildings is increased to forty percent (40%). Setback and height limits shall be reviewed as part of the overall site plan review process.

- F. **PERIMETER LANDSCAPING.** - Except for points of access and egress, the land abutting the major road(s), or residentially zoned areas or existing homes, shall be landscaped along the entire length of such property line(s). Perimeter planting shall be required along all exterior lot lines except those between two (2) or more parcels which are the subjects of a joint application under a coordinated plan.
- G. **ARCHITECTURAL TREATMENT.** - The design of the structure must be of a consistent architectural style and treatment compatible with adjoining residential areas. Facades visible from main roads shall be similar to the front.
- H. **SIGNS.** - Signs shall be of a uniform type in both lettering and design. Clear, legible signing is encouraged.
- I. **PARKING.** - The parking requirements of Article IX shall govern generally though the Village Planning Board in its site plan review process will take due account of the particular use groupings in assessing potential overlap of space standards. Single, large parking areas should be avoided and instead, the lots should be broken into smaller units through the provision of islands and plantings. The design shall reflect the difference between through aisles for the relatively unobstructed conduct of traffic through the area and interior aisles for the purpose of providing access to the individual parking stalls. Provision for safe and direct pedestrian movements from the parking areas to the buildings shall be required. Parking shall be screened from highways and residential areas with evergreen landscaping, low berms, and/or opaque fences or walls.
- G. **ACCESS.** - Access points to the major road(s) shall be minimized and spaced no closer together than two hundred (200') feet.

§ 280.53 PROCEDURES FOR ESTABLISHING A PLANNED DISTRICT

The procedures for establishing a Planned District shall be the same as those stated in Section 280.43.

§ 280.54 SPECIAL PROVISIONS APPLYING TO PLANNED DISTRICT

- A. The tract of land for the project may be owned, leased or controlled by a single person or corporation or by a group of individuals or corporations. An application must be filed by owners of all property included in the project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- B. For the purposes of regulating development and use of property after the zoning change has been enacted, any modifications of the approved site plan shall be handled as a site plan amendment for action by the Planning Board.

- § 280.55 (Reserved)
- § 280.56 (Reserved)
- § 280.57 (Reserved)
- § 280.58 (Reserved)
- § 280.59 (Reserved)

**ARTICLE VII
INCENTIVE ZONING**

§ 280.60 AUTHORIZATION

Pursuant to Section 7-703 of Village Law, the Village Board of Trustees is hereby empowered to provide for the granting of incentives subject to the conditions hereinafter set forth and such other conditions as the Village Board of Trustees deems necessary and appropriate that are consistent with the purposes of this section.

§ 280.61 PURPOSE

The purpose of providing a system of zoning incentives shall be to protect the natural and scenic qualities of open lands, to enhance sites and areas of special character or special historical, cultural, aesthetic or economic interest or value and to enable and encourage flexibility of design and careful management of land in recognition of land as a basic and valuable natural resource.

§ 280.62 CONDITIONS

The conditions referred to above are as follows:

- A. **CONSISTENCY WITH MASTER PLAN.** That the use of zoning incentives and the designation of the districts in which incentives apply, shall be established in accordance with the Village of Painted Post Master Plan as adopted on June 14, 1999 as amended, with special attention to Chapter VII Open Space/Natural Resources/Historic Preservation/Parks Network..

- B. **OPEN SPACE PROTECTION AREAS.**
 - 1. **Characteristics.** The open space protection areas which the zoning incentives are meant to protect shall consist of natural, scenic, recreational, or open land or sites of special historical, cultural, or aesthetic values.
 - 2. **Designation.** Open space protection areas are located within the Low Density Zone.

- C. **INCENTIVE AWARD AREAS.**
 - 1. **Characteristics.** Incentive Award Areas, in which zoning incentives may be authorized, shall contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection and shall exhibit no significant environmentally damaging consequences from the proposed development. Such increased development shall be compatible with the development otherwise permitted by the Village and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district.
 - 2. Incentive Award Areas are Planned Residential Districts (PRD's). PRD's may only be located within (Urban Center (UC) and Urban Center Residential (UCR) Zones.

- D. **EQUAL TAX BURDEN.** Where a project involving zoning incentives affects property in two or more school, special assessment or tax districts, it may not unreasonably transfer the tax burden between the taxpayers of such districts.

- E. **MAPPING.** Open Space Conservation Areas are coterminous with the Low Density Zone and Incentive Award Areas are Planned Residential Districts which are designated and mapped on the Village of Painted Post Zoning Map.
- F. **ENVIRONMENTAL REVIEW.** Notwithstanding any other provision of law to the contrary, environmental quality review pursuant to article eight of the environmental conservation law for any action in a receiving district that utilizes development rights shall be conducted
- G. **CONSERVATION EASEMENTS.** One lot conservation easement per two dwelling unit bonus. A conservation easement on the equivalent of one lot located within the Low Density Zone shall be required for the granting of two additional housing units in excess of the density permitted in the underlying zoning sought as part of the Planned Residential District (PRD).
 - 1. **The easement is noted on the deed.** The above conservation easement shall be issued by the Village to the applicant proposing the PRD and to the landowner in the Low Density Zone to whose land the easement applies in a form suitable for recording in the registry of deeds at the Steuben County Clerk's office in the manner of other conveyances of interests in land affecting its title.
 - 2. **Easement enforcement.** That the burden upon land designated as an open space protection area located within the Low Density Zone shall be documented by an instrument duly executed by the grantor in the form of a conservation easement, as defined in title three of article forty-nine of the environmental conservation law, which burden upon such land shall be enforceable by the appropriate Village in addition to any other person or entity granted enforcement rights by the terms of the instrument. All provisions of law applicable to such conservation easements pursuant to such title shall apply with respect to conservation easements hereunder, except that the Village board of trustees may adopt standards pertaining to the duration of such easements that are more stringent than such standards promulgated by the department of environmental conservation pursuant to such title.
- H. **ASSESSED VALUE ADJUSTMENT.** That within one year after a Planned Residential District is approved, the assessed valuation placed on the affected properties for real property tax purposes shall be adjusted to reflect the imposition of easements and the award of additional dwelling units as zoning incentives.
- I. **IMPACT ON AFFORDABLE HOUSING.** As part of the review of a proposed development involving zoning incentives, the Village Board of Trustees shall evaluate their impact upon the potential development of low or moderate income housing lost in the open space protection area and gained in the incentive award area and shall find either there is approximate equivalence between potential low and moderate housing units lost in the open space protection area and gained in the incentive award area or that the Village has or will take reasonable action to compensate for any negative impact upon the availability or potential development of low or moderate income housing caused by the approval of a Planned Residential District.

§ 280.63 PROCEDURE

- A. **APPLICATION CONTENT.** An applicant for a Planned Residential District shall file the following information with the Village Board of Trustees in addition to information required in accordance with Article VIII Site Plan Review Process.

1. **Open Space Protection Area characteristics.** The location, land area and number of residential lots for which an easement is proposed as determined through Section 280.27 Buildable Land Calculations
 2. **Incentive Award Area characteristics.** The location and land area of the site for which a PRD is proposed, the projected number of dwelling units that would result on the site from such PRD in excess of the underlying zoning and a statement of the character of the projected housing development.
 3. **Impact Narrative.** A narrative describing the reasonable and beneficial results anticipated from the authorization applied for with respect to the implementation of the Master Plan Update as amended.
- B. **VILLAGE BOARD ACTION.** The Village Board shall consider the application in accordance with Article V Planned Residential District.
- C. **PLANNING BOARD REVIEW.** The Planning Board report to the Village Board shall consider all aspects of the proposal, particularly that of the degree to which the proposal implements the Comprehensive Plan.

§ 280.64 CONDITIONS UPON APPROVAL

The following conditions are in addition to those found in Article V Planned Residential District.

- A. **LEGAL TRANSFER DOCUMENTS.** Execution of an instrument legally sufficient both in form and content to effect such easement upon the property designated as an Open Space Protection Area to the Village of Painted Post or such other governmental agency or appropriate organization.
- B. **REMAINING BUILDABLE LOTS.** Where buildable lots remain, said instrument shall specify the number of remaining buildable lots attributed to said property upon the approval of the Planned Residential District.

- § 280.65 (Reserved)
- § 280.66 (Reserved)
- § 280.67 (Reserved)
- § 280.68 (Reserved)
- § 280.69 (Reserved)
- § 280.70 (Reserved)
- § 280.71 (Reserved)
- § 280.72 (Reserved)
- § 280.73 (Reserved)
- § 280.74 (Reserved)
- § 280.75 (Reserved)
- § 280.76 (Reserved)
- § 280.77 (Reserved)

**ARTICLE VIII
SITE PLAN REVIEW PROCESS**

§ 280.78 INTENT

The intent of site plan review is to ensure compliance with the objectives of this Law and with regard to specified uses that may be permitted in the Village of Painted Post as noted in Section Use Regulations and as shown on the related Schedule of Uses Table. The objective is to evaluate a land use in terms of potential conflict between existing and proposed uses or with natural site conditions and thereby minimize the adverse affects concerning health, safety, and overall welfare of the residents of the community.

§ 280.79 AUTHORIZATION

The power to approve, approve with modification, or deny site plans as required by this Law is vested in the Village Planning Board pursuant to Section 7-725-a of Village Law. Prior to issuing a building permit or certificate of occupancy for any specified use, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval. The Planning Board in its review of any site plan shall be guided by the criteria set forth in this Article and the standards and guidelines set forth in Article IX Development Guidelines and General Provisions. The Village Planning Board may require that a site plan be prepared by a licensed architect or engineer. Such requirement shall depend upon the complexity of the natural features at the site and the proposed structures or uses, including the existence of public improvements, such as roads, water and sewer, to be dedicated to the Village.

§ 280.80 WAIVER OF REQUIREMENTS

The Planning Board may waive any such requirements that are clearly not relevant to the site and the proposed use.

§ 280.81 CONCEPT PLAN CONFERENCE

The concept plan submittal is optional. The purpose of this step is to encourage the person applying for a use subject to site plan review an opportunity to consult early and informally with the Planning Board in order to save time and money and to facilitate opportunities for desirable development.

- A. **REQUIREMENTS.** A concept plan shall be prepared and submitted in triplicate to the Planning Board. Before preparing a concept layout, the developer may discuss with the Planning Board or the Village planning consultant the general requirement as to design of streets, reservations of land, drainage, sewerage, water supply, fire protection, and other improvements as well as procedural matters. Developers of land adjoining state or county highways are advised to consult with the district engineer of New York State Department of Transportation or the Village or County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning Board shall provide written comments on the current plan of a proposed development in relation to the applicable requirements of this Article and Article IX, to existing or potential development of the adjacent area, the Village Comprehensive Plan as amended, and in the course of its review may consult with other interested public agencies.

- B. **PLAN CONTENT.** The concept plan shall include in as much detail as possible the following information:

1. An area map showing:
 - A. That portion of the applicant's property under consideration for development and any contiguous parcels owned by the applicant.
 - B. A copy of the Village of Painted Post Zoning Map locating the property.
 - C. A copy of the Village of Painted Post Flood Boundary and Floodway Map locating the property, if applicable.
 - D. A copy of a map of site topography (United States Geological Survey topographic map).
 - E. A copy of the Steuben County Soils Map locating the property if general grades exceed fifteen (15%) percent or portions of the site have susceptibility to erosion, flooding or ponding.
 - F. A site development map, generally to scale, showing all proposed structures and improvements. An aerial photograph depicting vegetation, hedgerows, waterbodies and other features of the site.
 - G. Name/Address of applicant and/or site owner, if different.
 - H. Concise description of the nature of the applicant's business.

§ 280.82 SITE PLAN APPLICATION

Application for site plan approval shall be made in writing, to the Village Clerk at least fifteen (15) days prior to a scheduled Village Planning Board meeting . The Village Clerk shall forward all site plan applications to the Planning Board for its review and approval. For the purposes of this Law, the submission date shall be taken as the date of the first regular Village Planning Board meeting following the receipt of a site plan application by the Village Clerk. The application shall be submitted in triplicate and shall be accompanied by the information listed below in a form prescribed by the Planning Board. The Village Planning Board may at its discretion waive any requirements of the preliminary site plan which are clearly not relevant to the site and proposed use or required in the interest of public health, safety, or general welfare.

§ 280.83 SITE PLAN REQUIREMENTS

- A. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and any contiguous parcels owned by the applicant, as well as, all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred (500) feet of applicant's property.
- B. A site plan shall include but is not limited to the following information:
 1. Title of drawing, including name and address of applicant.
 2. North point, scale and date.

3. Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch on a survey map prepared by a New York licensed surveyor.
4. Existing natural features such as watercourses, waterbodies, wetlands, drainage ways wooded areas and individual large trees, one hundred (100) year flood hazard areas, the aquifer and the watershed tributary area. Features to be retained should be noted.
5. Existing and proposed contours at intervals of not more than two (2) foot contour intervals.
6. Location of proposed land uses and their areas in acres.
7. Location, proposed use and height of all buildings.
8. Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
9. Description of sewage disposal and water systems and location of such facilities.
10. Location and proposed development of buffer areas and other landscaping.
11. Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and calculation of the residential density in dwelling units *per gross acre* for each such area.
12. Location of all parking and truck-loading areas, with access and egress drives thereto.
13. Location, design and size of all signs and lighting facilities.
14. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.
15. Building orientation and site design for energy efficiency.
16. Location and design of all energy distribution facilities, including electrical, gas and solar energy.
17. Grading, erosion and sediment control. Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc. as specified in “The Stormwater Management and Erosion Control Plan (Structure and Content), Appendix F of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities.”
18. Location and design for stormwater management facilities. Description of the arrangements that will be made for ensuring long-term maintenance of stormwater management and erosion control facilities. Backup contingency plan should be provided and described. Those responsible for performing maintenance should be identified.
19. Description of hazardous materials to be used or stored on site and the location of such storage facilities.

20. Description and methods and locations for disposal of construction demolition debris.
 21. Drainage report including the location and design of stormwater management facilities, supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities as specified in “The Stormwater Management and Erosion Control Plan (Structure and Content). Appendix F of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities.”
 22. The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.
- C. The Village Planning Board may require such additional information that appears necessary for a complete assessment of the project.
- D. The Village Planning Board’s review of the site plan shall include, but is not limited to, the following considerations:
1. Adequacy and arrangement of vehicular traffic access and circulation.
 2. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 3. Location, arrangement, size and design of buildings, lighting and signs.
 4. Relationship of the various uses to one another and their scale.
 5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands.
 6. Adequacy of storm water, erosion control and sanitary waste disposal designed to protect surface water and groundwater resources.
 7. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding and/or erosion.
 8. Compatibility of development with natural features of the site and with surrounding land uses.
 9. Adequacy of floodproofing, elevation, and protection measures consistent with flood hazard prevention district regulations.
 10. Adequacy of methods and locations for disposal of construction demolition debris designed to protect groundwater resources.
 11. Adequacy of hazardous material storage facilities designed to protect groundwater resources.

12. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.
 13. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
 14. Adequacy of pedestrian access, circulation, convenience and safety.
- E. In their review of a site plan, the Planning Board may consult with the Enforcement Officer, fire commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Natural Resources Conservation Service, and the State Departments of Transportation and Environmental Conservation.

§ 280.84 APPLICATION FOR AN AREA VARIANCE

Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with these zoning regulations, the Planning Board shall direct the applicant to the Zoning Board of Appeals for an area variance pursuant to 7-712-b of Village Law, without the necessity of a decision or determination of the Enforcement Officer.

§ 280.85 CONDITIONS

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by the Enforcement Officer.

§ 280.86 RESERVATION OF PARKLAND

- A. **REQUIREMENT BEFORE APPROVAL.** Before the Planning Board may approve a Site Plan containing residential units, such Site Plan shall also show, when required by the Planning Board, a park or parks suitably located for playground or other recreational purposes.
- B. **FINDINGS.** Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Village. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Village based on projected population growth to which the particular site plan will contribute.
- C. **PAYMENT IN LIEU OF LAND.** In the event the Planning Board makes a finding pursuant to paragraph 280.86B above that the proposed Site Plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof to be established by the Village Board. In making such determination of suitability, the Village Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of

land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the Village exclusively for park, playground or other recreational purposes, including the acquisition of property.

- D. **LAND IN APPROVED SUBDIVISION.** Notwithstanding the foregoing provisions of this section, if the land included in a site plan under review is a portion of a subdivision plat which has been properly reviewed and approved, the Village Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

§ 280.87 PERFORMANCE BOND OR OTHER SECURITY

As an alternative to the installation of required infrastructure and improvements, prior to approval by the Planning Board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Village Public Works Department, where such departmental estimate is deemed acceptable by the Village Planning Board, shall be furnished to the Village by the owner. Such security shall be provided to the Village pursuant to the provisions of Subdivision nine (9) of Section 7-730 of Village Law.

§ 280.88 PUBLIC HEARING

The Planning Board shall schedule a public hearing within sixty-two (62) days of the Planning Board's determination that the site plan application is complete and satisfactory.

Ten days before said hearing, the Planning Board shall mail notice to the applicant and shall give public notice of said hearing at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Village.

§ 280.89 NOTICE TO METROPOLITAN, REGIONAL, OR COUNTY PLANNING AGENCY

The Planning Board shall give written notice at least ten (10) days prior to the date of the public hearing to any required municipal, county, regional, metropolitan, state or federal agency including housing authorities, municipalities and state parks within five hundred (500) feet of the property affected by the site plan in accordance to Section 239M of the General Municipal Law.

§ 280.90 COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT

The Planning Board shall comply with the provisions of the NYS Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

§ 280.91 NOTIFICATION OF DECISION ON SITE PLAN

Within sixty-two (62) days of the public hearing on the site plan, the Village Planning Board shall render a decision. Such time period may be extended upon mutual agreement of the Village Planning Board and the applicant. The Village Planning Board shall file its decision in the office of the Village clerk within five business days after such decision is rendered and shall mail a copy to the applicant. A copy of the appropriate minutes may suffice for this notice.

- A. Upon approval, or approval with modifications, the Board shall endorse the approval on a copy of the site plan and shall also forward it to the Enforcement Officer who may then issue any

required building permit following the thirty (30) day appeal period if the project conforms to all other applicable requirements.

- B. Upon disapproval, the Board shall so inform the Enforcement Officer and he shall deny a building permit.
- C. Specifications for improvements shown on the site plan shall be those set forth in this Law and in other ordinances, rules and regulations, or in construction specifications of the Village of Painted Post.

§ 280.92 COURT REVIEW

The applicant or any interested person may appeal a decision of the Village Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after filing of a decision on a final site plan application by the Planning Board in the office of the Village Clerk.

§ 280.93 COSTS

Costs shall not be allowed against the Planning Board unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

§ 280.94 PREFERENCE

All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

- § 280.95 (Reserved)
- § 280.96 (Reserved)
- § 280.97 (Reserved)
- § 280.98 (Reserved)
- § 280.99 (Reserved)

**ARTICLE IX
DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS**

§ 280.100 GENERAL

The Planning Board in reviewing site plans and special use permits shall be guided by the considerations and standards presented in this Article. In the review, they shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. For permitted uses the Enforcement Officer shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

§ 280.101 LOTS AND BLOCKS

- A. **LOT SIZE AND ARRANGEMENT.** The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build. In general, side lot lines shall be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.

- B. **ACCESS.** Insofar as possible, lots shall not derive access from a major road. Access to lots adjacent to a major road shall, in general, be from marginal access streets or other streets within the development. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other storm water drainage facilities in the development.

§ 280.102 STREET, ROAD, AND PAVEMENT DESIGN

Design of all streets and their improvements must meet the Village specifications. The Superintendent of Public Works shall approve the design and construction of all proposed streets and improvements.

- A. **SIDEWALKS.** Concrete sidewalks at least four (4) feet wide may be required on both sides of all streets. They may also be required within pedestrian easements through blocks to provide a system of pedestrian walkways to schools, parks, and other community facilities. Sidewalks should be two (2) feet from the property line inside the right-of-way, unless the adjacent street is a state or county highway, in which case the sidewalk shall be placed adjacent to and outside of the right-of-way. Sidewalks within pedestrian easements shall be generally centered within the easement.

- B. **TREES.** The developer shall take adequate measures to preserve desirable existing trees in suitable locations within the development. Street trees may be planted on both sides of the street and ten (10) feet outside the right-of-way, at intervals of approximately fifty (50) feet, subject to location of drives, street intersections, or other features. In general, the street right-of-way shall be cleared of existing trees, but occasional existing trees of unusual value may be preserved within the street right-of-way if approved by the Village Planning Board.

- C. **STREET NAMES AND SIGNS.** All streets shall be named, and such names shall be subject to the approval of the Village Board. A street which is a continuation of an existing street shall bear the same name. Relating street names to features of local historical, topographical, or other natural interest is encouraged. Street signs shall be provided by the developer at all intersections

and shall be of a type approved by the Superintendent of Public Works.

- D. **STREET IMPROVEMENTS - GENERAL.** In addition to the required improvements specifically referred to elsewhere in these regulations, developers shall provide for all other customary elements of street construction and utility service which may be appropriate in each location as determined by the Village. Such elements may include, but shall not be limited to, street lighting standards, inlets, manholes, curbs, sidewalks, street lighting standards, water mains, fire hydrants, fire alarm signal devices, and sanitary sewers. Underground utilities within the street right-of-way shall be located as required by the Village and underground service connections to the property line of each lot shall be installed before the road is paved. All street improvements and other construction features of the development shall conform to municipal specifications which may be established from time to time and shall be subject to approval as to design, specifications, and construction by the Superintendent of Public Works.
- E. **WIDENING OF EXISTING STREET RIGHT-OF-WAY.** Where a development adjoins an existing street which does not conform to the Village right-of-way standards, the developer shall dedicate whatever additional right-of-way width is necessary to provide, on the development side of the normal street centerline, a width which is equal to at least one-half of the minimum standard width for the respective type of street.
- F. **DESIGNATION OF STREETS.** Every street shown on a site plan or plat that is hereafter filed in the office of the County Clerk shall be deemed to be a private street until such time as it is formally accepted as a public street by resolution of the Village Board of Trustees, or alternatively condemned by the municipality for use as a public street.

§ 280.103 OFF-STREET PARKING

A. GENERAL REQUIREMENTS.

- 1. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required in the listing below for any use which is erected, enlarged, or altered after the effective date of this law.
- 2. A parking space shall be considered adequate if it is not less than two hundred (200) square feet (10' x 20') exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to street or alley.
- 3. No exit or entrance drive connecting a parking area and a street shall be permitted within thirty (30) feet of the intersection of two public rights-of-way.
- 4. Where appropriate, the Zoning Board of Appeals, may upon the presentation of evidence, vary the number and circumstance of the following parking space requirements, in order that the general welfare be served and the prospective uses be equitably treated.
- 5. Uses not permitted within residential districts shall not locate their parking within residentially zoned districts.
- 6. The lighting of off-street parking lots shall not be directed into adjacent properties.

B. OFF-STREET PARKING REQUIREMENTS

USE	REQUIREMENT
1. Residential	
- One and two-family	One space per dwelling unit LDR District – Two spaces per dwelling unit
- Multi-family	One and one half spaces per dwelling unit
- Home Occupation	Two spaces for each person or employee engaged in any home occupation
2. Public	
- Hospitals, sanitariums, nursing homes	One space for every two beds <u>plus</u> one for every two employees
- Places of public assembly (churches, auditoriums, theaters)	One space for every five seats
- Elementary and intermediary Schools	One space per employee <u>plus</u> one space for every fifty students
- High schools and colleges	Five spaces for each classrooms
3. Commercial, Office, Business	
- Tourists home, rooming house	One space per bedroom
Offices (professional, personal service, public/private utility)	One space per two hundred square feet of gross office floor area
- Service Retail	One space per one hundred square feet of gross floor area
- Retail	One space per one hundred square feet of gross floor area
- Private/public membership clubs	One space per one hundred square feet of gross floor area
- Roadside stands	One space pr fifty square feet of area devoted to selling or display
- Wholesale	One space per employee <u>plus</u> one space per seven hundred square feet of patron serving area
4. Industrial	
- Industrial	Two spaces per three employees on the main shift

5. Spaces in municipal lots, where provided, may be credited toward the parking requirements for these uses, provided that:
 - A. These spaces are within four hundred (400) feet of the uses to be served;
 - B. The parking needs for existing facilities (within four hundred (400) feet and computed on the same basis as for new facilities) are satisfied first, and only excess capacity is used for this purpose; and
 - C. The Village Board approves such use.
6. Other uses not specifically listed above shall furnish such parking as required by the

Village Planning Board. The Village Planning Board shall use the above requirements as a guide for other uses.

- C. **CALCULATION OF REQUIRED SPACE.** In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately. If a portion of floor area, not less than one hundred (100) contiguous square feet in a retail store will be used exclusively for storage of merchandise which is not being displayed for sale, such space may be deducted in computing parking requirements, but the owner shall not thereafter use the space for any other purpose without furnishing additional off-street parking as required by this law.
- D. **JOINT USE OF FACILITIES.** The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.
- E. **LOCATION OF PARKING FACILITIES.** Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or on another parcel not farther than two hundred fifty (250) feet from the building or use they are intended to serve, measured in a straight line from the building. The burden of proving the existence of such off-premise parking arrangements rests upon the person who has the responsibility of providing parking.
- F. **USE OF COMMERCIAL PARKING LOTS.** Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- G. **PARKING, FRONT YARD.** Unless otherwise provided, required parking and loading spaces shall not be located in any required front yard, except in the case of single or two-family dwelling, but such space may be located within a required side or rear yards.
- H. **DEVELOPMENT AND MAINTENANCE STANDARDS FOR OFF-STREET PARKING.** Every parcel of land hereafter used as a public or private parking area shall be developed as follows:
1. An off-street parking area for more than five (5) vehicles shall be effectively screened by a sight-obscuring fence, hedge, or planting, on each side which adjoins property situated in a residential area or premises, or any school or like institution.
 2. Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directory upon any adjoining property.
 3. Except for single-family and duplex dwelling, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing

movements or other maneuvering with a road or right-of-way.

4. In a multiple residence development, parking shall be so distributed as to service the individual units. There shall be no more than two hundred (200) feet between car and door. Parking lots should be kept small and in other ways broken up into smaller units through provision of islands and plantings. Parking spaces should not run continuous more than ten (10) adjacent spaces.

§ 280.104 OFF-STREET LOADING

- A. **DIMENSIONS FOR OFF-STREET LOADING BERTHS.** Each required loading berth (open or enclosed) shall have the following minimum dimensions: 55 feet long, 12 feet wide, and 14 feet high, except that berths for funeral homes may be 20 feet long, 10 feet wide and 8 feet high.
- B. **LOCATION OF REQUIRED BERTHS.** All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off-street loading areas shall not encroach on any required front or side yard, access way or off-street parking areas except in business districts. Off-street parking areas where they exist may be used for loading or unloading, provided that such spaces shall not be used for more than three (3) hours during the daily period that the establishment is open for business.
- C. **LANDSCAPING.** All loading berths that abut a residential lot line, shall be screened by a six-foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property. All loading areas and landscaping shall be properly maintained thereafter in a sightly and well-kept condition.
- D. **REQUIREMENTS.**

<u>Use</u>	<u>Gross Floor Area (Square feet)</u>	<u>Unloading Berths</u>
Retail Stores, Wholesale Establishments, Storage Uses, Other Commercial Uses	3,000 to 15,000	1
	15,001 to 40,000	2
	each 25,000 additional	1 additional
Motels - Hotels, Office Buildings	100,000 or less	1
	100,001 to 300,000	2
	each 200,000 additional	1 additional
<u>Use</u>	<u>Gross Floor Area (Square feet)</u>	<u>Unloading Berths</u>
Industrial	15,000 or less	1
	15,001 to 40,000	2
	40,000 to 100,000	3
	each 40,000 additional	1 additional

§ 280.105 SIGNS

No sign or other outdoor device for the purpose of advertising of any kind may be erected or established in the Village except in conformance with the standards in this section.

A. GENERAL PROVISIONS.

1. All signs except those signs permitted in any district as listed in Section 280.105.A.2 shall require a building permit and shall comply with applicable regulations of the Building Code. The provisions of this Section shall not apply to safety signs, road signs, historical markers or highway directional signs erected by municipal or public agencies.
2. No permanent or temporary sign shall be erected or placed in a road right-of-way or at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position, shape, or color of the sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the word, “Stop,” “Look,” “Drive-in,” “Left,” or any other words, phrase symbol, or character in such a manner as to interfere with, mislead or confuse traffic.
3. No sign shall be attached to a Village, State or public utility pole, post, mast or similar support device.
4. No attached sign shall be placed or erected above the maximum elevation of the main roofline of a building.
5. Any permitted free-standing sign shall not be more than twenty-six (26) feet in height above the average surface of the ground of the parcel on which the sign is located.
6. All signs shall be set back a minimum of ten (10) feet from any lot line unless otherwise specified.
7. The size of sign shall refer to the overall area occupied by the total sign and include the face area of each surface and any spaces between parts thereof.
8. Illumination of signs shall not be intermittent or of varying intensity and may not produce glare beyond the limits of the property lines.
9. Signs with moving parts are not permitted except public service signs providing time and temperature information approved by the Code Enforcement Officer.
10. Permanent advertising signs are prohibited.

B. SIGNS PERMITTED IN ANY DISTRICT.

1. Real estate signs - maximum eight (8) square feet in residential districts, maximum thirty (30) square feet in business and industrial districts.
2. On-site memorial signs or tablets.

3. Temporary signs denoting architect, engineer, contractor, etc. when placed upon the premises where the construction proposed or underway. Such signs shall be removed within thirty (30) days after construction is completed.
4. Traffic or other municipal signs, legal notices and such temporary or non-advertising signs for government purposes.
5. Temporary posters covering such things as political and sporting events, shows and elections. Such signs shall not be larger than six (6) square feet and shall not be displayed until four (4) weeks prior to the event and must be removed within two (2) weeks following the event. Such signs shall not be displayed for more than a seven (7) week period.
6. Temporary banners and similar devices may be displayed for the occasion of the special event and shall be displayed for no longer than a three (3) week period. Maximum size is twenty (20) square feet.
7. All signs, certificates, and licenses that are mandated to be on display by any local, county, state, or federal law or authority.
8. Two (2) on site signs, each not exceeding four (4) square feet in area, indicating or calling attention to traffic entrances and exists, provided that, if illuminated, such illumination shall cease at the close of business hours or 11:30 p.m., whichever is later. Such signs shall not carry any advertisement, insignia or business logo, nor shall they be nearer than five (5) feet to any lot line, and they shall not project more than four (4) feet above grade.
9. Small seasonal or temporary advertising signs, provided that such signs do not carry any advertisement, insignia or business logo, shall not be nearer than five (5) feet to any lot line, and shall not project more than four (4) feet above grade. The owner of said sign shall obtain written permission from the owner of the land on which it is to be located. Maximum size is six (6) square feet.

C. SIGNS PERMITTED IN RESIDENTIAL DISTRICTS - LDR, MDR, UC, UCR.

1. A multi-family dwelling unit complex may display indirectly illuminated identification signs mounted flat on each building which do not have a face area of more than two (2) square feet each.
2. A dwelling unit, in which a home occupation is permitted, may display a sign noting such occupation. Such sign shall be mounted flat against the wall of the dwelling unit and shall be no more than two (2) square feet in area.
3. Subdivision signs - any person offering lots for sale in an approved subdivision may erect a non-illuminated sign having an aggregate total face area of not more than thirty-two (32) square feet.
4. Professional or business name plates - maximum size two (2) square feet.
5. Civic, religious, educational, institutional, social, membership clubs, gateway signs for housing developments or multi-family complexes and similar facilities may display one

on site identification sign. The aggregate face area of such sign shall not exceed thirty-two (32) square feet.

D. SIGNS PERMITTED IN THE BUSINESS DISTRICT - B.

1. Two business identification signs may be displayed at each establishment. The total face area of such signs shall not exceed one hundred twenty (120) square feet and no single face shall exceed sixty (60) square feet.
2. One high rise sign free-standing sign may be permitted within 1,000 feet of the right-of-way of a limited access highway upon issuance of a Special Use Permit. See Section 280.105.F.
3. On premises advertising devices which are painted or represented on a structure may be permitted. The total area of such devices shall not exceed 120 square feet.
4. On any gasoline service station not more than one (1) pole sign erected for the purpose of advertising the brand of gasoline sold at such service station, provided such pole sign have a maximum area of not more than thirty (30) square feet, and a maximum area of not more than fifteen (15) feet to the top of such pole.
5. Two (2) signs each not exceeding four (4) square feet in area, indicating or calling attention to traffic entrances and exits, provided that, if illuminated, such illumination shall cease at the close of business hours or 11:00 p.m., whichever is later. Such signs shall not carry any advertisement, shall not be nearer than five (5) feet to any lot line and shall not project more than five (5) feet in height above grade.
6. Accessory signs may be displayed at each establishment, provided that such signs conform to the following:
 - A. Signs may be exhibited in any window area, provided that the display area does not exceed thirty percent (30%) of each window area.
 - B. Additional signs may be located on the building facade or on certain merchandise displays as may be appropriately stored outside during business hours.
 - C. The aggregate total display area of all such signs does not exceed an area equal to five-tenths (0.5) square foot per linear foot of building frontage.

E. SIGNS PERMITTED IN THE INDUSTRIAL DISTRICT - I.

Two (2) on premise signs each having a single face area of not more than one hundred fifty (150) square feet may be displayed for each establishment. If free standing signs face substantially at right angles to the road and are visible from more than one direction, they shall have a face area of not more than three hundred (300) square feet. The supports for such signs shall not be located nearer than ten (10) feet to any property line. These signs shall not extend more than twenty (20) feet above the ground or more than five (5) feet above the height of the roof of a building at the point of location of signs. On premise advertising devices which are painted or represented on a structure may also be permitted the total area of such devices shall not exceed an area of three hundred (300) square feet.

F. HIGH-RISE FREE STANDING SIGN.

Signs directing travelers to food, gas and lodging establishments in the Village of Painted Post require a Special Use Permit and must meet the following standards as follows:

1. The applicant must provide documentation that an application to NYS DOT for a blue informational highway sign was made before a Special Use Permit will be considered. If a NYS DOT sign is authorized, justification for the need for a high rise sign must be provided to the Planning Board.
2. Maximum area: one hundred (100) square feet.
3. In Industrial Districts only.
4. Maximum height: Minimum height necessary for visibility from the highway. A “balloon test,” observed by the Code Enforcement Officer, shall be used to determine the acceptable height.
5. A completed Visual Environmental Assessment Form (visual EAF) including simulated photographic visualization of the site, with attention to visibility from key view points.

G. REMOVAL OF CERTAIN SIGNS.

Any sign now or hereafter existing which no longer advertises a bonafide business conducted, or a product sold, or conforms with the Zoning Law shall be removed by the owner, agent, or person having the beneficial use of the building or structure upon which such sign may be found within sixty (60) days after written notification from the Code Enforcement Officer. Upon failure to comply with such notice within the time specified in such order, the Code Enforcement Officer is hereby authorized to cause removal of such sign. Any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.

H. PORTABLE SIGNS.

Portable signs may be used as part of the accessory sign square footage, provided that the following minimum standards are met:

1. All such signs shall be adequately anchored to the ground to withstand wind loads as per the Uniform Fire Prevention and Building Code.
2. All such signs shall conform to the Uniform Fire Prevention and Building Code.
3. All such signs shall be maintained in a reasonable manner and shall display a message. Failure to display a message for a one (1) week or more time frame shall be grounds for removal.

- A. No accessory building shall be located closer to a street than the front building line of the principal structure. A minimum setback of six (6) feet shall be maintained from the side and rear lot lines.
- B. **ACCESSORY USES.** In a residential district accessory uses not enclosed in a building, excluding swimming pools, shall be erected only on the same lot as the principal structure, may not be constructed in a front yard of such lot and shall be located not less than twenty (20) feet from any lot line nor less than ten (10) feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.
- C. Where twenty five percent (25%) or more of the lots in a block are occupied by buildings, the average yard dimensions, average of lot coverage of such buildings and the average side and rear yard set-back shall determine the yard set-back and coverage requirements for any new accessory building or use, within the block. Or, where no standard block exists, the word "block" as used above shall be interpreted to mean those residences within two hundred fifty (250) feet of either side of the lot in question, in the same side of the street. The average set-back shall not be based on fewer than two (2) existing residences.
- D. **SPECIAL DESIGNS.** In cases where the developer can demonstrate that his proposal is architecturally unusual, the Village Planning Board may approve siting of accessory buildings such as garages and carports in front of the building line of the principal structure. Such accessory buildings shall be in compliance with required front setbacks.
- E. **RESIDENTIAL SWIMMING POOL.** A swimming pool not located within a dwelling unit shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements, to the extent applicable:
1. A private swimming pool shall be located in a rear yard only.
 2. The portion of the premises upon which any swimming pool is located shall be entirely enclosed with a good quality of chain-link wire, wooden or other equivalent fence of not less than four (4) feet nor more than six (6) feet in height.
 3. Every gate or other opening in the fence enclosing any swimming pool shall be kept securely closed and locked at all times when such pool is not in use.
 4. A swimming pool shall not be less than six (6) feet from side and rear lot lines and not less than six (6) feet from any building or structure on the premises.
 5. The water inlet of every swimming pool shall be above the overflow level of said pool. No drains shall be connected with the sanitary sewer system.
 6. Every swimming pool shall be chemically treated in a manner sufficient to maintain the bacteriological standards established by the requirements of the New York State Department of Health.
 7. No permit shall be granted for the installation or construction of any swimming pool

unless the plans shall meet the minimum construction requirements of the Building Code as approved by the Enforcement Officer.

8. No loudspeaking or amplifying device shall be permitted that will project sound beyond the bounds of the property or lot where any pool is located.
9. No lighting or spotlighting shall be permitted that will project light rays beyond the bounds of the property or lot where the pool is located.
10. Swimming pools may be installed in residential districts only as accessory structures to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests.
11. Should the owner abandon the pool, he shall arrange to remove the depression and return the surface of the ground to its original grade and approximately in the same condition as before the pool was constructed and he shall further notify the Enforcement Officer of the abandonment so that an inspection of the site may be made and the records of the permit be marked accordingly. For the purpose of this Law, a swimming pool shall be considered abandoned if the owner intends to permanently cease the use of the structure.

§ 280.107 HOME OCCUPATION

An on site home occupation may be permitted in any zoning district subject to the approval of a Special Use Permit and site plan review by the Village Planning Board provided such use is not specifically prohibited in the district (see Section 280.18 Use Regulations). Such use shall conform to the following standards which shall be minimum requirements:

- A. No more than twenty five percent (25%) of the total floor area of a dwelling unit or 500 square feet whichever is the lesser may be used for such use.
- B. The use shall be carried on wholly within the enclosed walls of the dwelling unit or accessory building.
- C. There shall be no external evidence of such use except for one sign not exceeding two (2) square feet in area mounted flush with and on the facade of the dwelling unit. Stock merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit or accessory building.
- D. No external structural alterations which are not customary to a residential building shall be allowed.
- E. No more than one profession or occupation, shall be allowed per dwelling unit.
- F. Any form of business whose primary function is the retail sale of goods or articles produced elsewhere than on the premises such as a small grocery store, shall not be deemed a home occupation.
- G. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- H. Such uses shall also be subject to any other conditions the Village Planning Board deems necessary to meet the intent of these requirements.

**§ 280.108 GASOLINE FILLING STATIONS, SERVICE AND REPAIR GARAGES,
AUTOMOBILE SALES**

In any district where permitted, a gasoline filling station, service and repair garage and automobile sales areas shall conform to the following standards which shall be regarded as minimum requirements:

- A. Lot size shall be at least 15,000 square feet.
- B. Lot frontage and width shall be at least one hundred fifty (150) feet.
- C. Fuel pumps and other service devices shall be located at least thirty-five (35) feet from any front lot line and fifty (50) feet from any side and rear lot lines. This distance shall be measured from the outside edge of the fuel island.
- D. All automobile parts, including tires and dismantled vehicles are to be stored within a building. Old tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind a six (6) foot high fence, wall or natural screen.
- E. All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period not to exceed thirty (30) days and must be stored in the rear of the premises, out of sight as much as is possible.
- F. No vehicles shall be parked, stored or left standing within thirty-five (35) feet of the street line.
- G. All storage and display areas shall be provided with a hard, dust-free surface, shall be adequately drained and, if lighted, shall produce no glare on adjacent properties.
- H. Driveways and curb cuts shall be clearly defined, no less than twenty (20) feet and not wider than thirty (30) feet, and located so as not to interfere with traffic at any intersection.
- I. All such uses located next to residential areas shall be screened from such areas by landscaping dense enough and high enough to reduce noise and screen out objectionable views.

§ 280.109 DRIVEWAY STANDARDS

No person, firm or corporation shall construct or locate any driveway entrance or exit into a street of the Village of Painted Post without having first met the provisions of this section and obtained approval from the Superintendent of Public Works.

- A. The applicant shall furnish all materials and bear all costs of construction within the street right-of-way; pay the cost of all work done and materials furnished as required to meet the conditions set by the Superintendent of Public Works.
- B. No alteration or addition shall be made to any driveway without first securing permission from the Superintendent of Public Works.
- C. No more than two driveways to a single commercial establishment entering on one highway shall be permitted.

- D. The maximum width for a combined entrance and exit shall not be more than 50 feet for commercial use and not more than twenty (20) feet for residential use. The maximum width for a commercial use single entrance or exit shall be not more than thirty (30) feet.
- E. The slope of the driveway shall not be greater than ten percent (10%). Slope of the driveway shall not exceed two (2%) within twenty-five (25) feet of the intersecting public highway.
- F. The driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. The Superintendent of Public Works may require such other measures as he deems necessary to prevent surface water and debris from being discharged onto the street.

§ 280.110 FENCES, WALLS, HEDGES AND SCREEN PLANTING

Fences, walls, hedges and screen planting are permitted as follows:

- A. Where a driveway meets the road, a fence wall, or hedge shall not exceed two and one-half (2 ½) feet in height.
- B. On any corner lot no obstructions higher than two and one-half (2 ½) feet above the centerline of street elevation shall be permitted within the triangular area formed by the intersecting pavement lines or their projections and a straight line joining the pavement lines at points thirty (30) feet distance from their point of intersection.
- C. The vision clearance area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding two and one-half (2 ½) feet in height measured from the top of the street pavement, except that street trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the grade.
- D. Fences, walls, hedges or screen plantings may be required, by the Village Planning Board, in residential, business and industrial districts to protect the quality of adjacent property.
- E. In any residential district, walls and fences up to six (6) feet in height shall be permitted on a lot except where corner sight clearances are required for traffic safety. In any business or industrial district there shall be no restriction on fences or walls except on a residential district boundary line where such fences or walls shall be limited to eight (8) feet in height and except where corner clearances are required. All such fences, walls and hedges shall be located within the boundaries of the lot.

§ 280.111 STEEP SLOPE GUIDELINES

The Village of Painted Post contains steep slope (15% or greater) areas. Special design treatment for streets, building sites and other development may be required to preserve the natural terrain, trees, rock formation, scenic views, etc. All development on steep slopes shall be subject to the following guidelines:

- A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) And road location (including cross-sections).

- B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
- C. Design principles shall include, but not be limited to, the following:
1. Landscaping of areas around structures making them compatible with the natural terrain.
 2. Shaping, grouping and placement of man-made structures to complement the natural landscape.
 3. Arrange buildings so they compliment one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer shall first determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them.
 4. Shape of essential grading to compliment existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
 5. Encourage the use of turning circles at mid-block points and the development of off-street parking bays to avoid the use of private driveways for turning and parking movement.
 6. Encourage split-level building sites.
 7. Use one-way streets when consistent with traffic, safety, circulation needs, and natural topography. This guideline allows for narrower road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.
 8. Land within the hill area that is in excess of twenty-five percent (25%) slope shall not be developed as individual residential lots.
 9. Outstanding natural features such as the highest crest of the hill range, natural rock outcroppings, particularly desirable vegetation, etc. should be retained.

§ 280.112 DRAINAGE SYSTEM AND EROSION CONTROL

- A. **DRAINAGE SYSTEMS.** Adequate and comprehensive drainage systems shall be provided to convey the storm water runoff originating within and outside the development in accordance with the natural direction of runoff for the total upland watershed affecting the area.. Such drainage systems shall be designed to effectively control the rate of surface runoff generated within the proposed development. Such drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of development. In general, the preservation of natural watercourses is preferable to the construction of drainage channels. All structures hall

have a minimum setback of fifty (50) feet from the streambank.

Stormwater management shall be consistent with the standards specified in “Stormwater Management Guidelines for New Development, Appendix D of New York State Department of Environmental Conservation SPDES General Permit for Storm Water Discharges from Construction Activities.”

When a land development project is within or adjacent to any area with known flooding problems or known high ground water, the elevations of buildings shall be above the observed, anticipated or computed water levels. The effect of such development on upstream and downstream reaches of the watercourse and adjacent properties shall be considered and adequate protective measures shall be implemented.

Utilizing the drainage guidelines outlined above, the Village Planning Board may require the developer to submit the following:

1. Plan, profiles, and typical and special cross-sections of proposed storm water drainage facilities.
2. Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.
3. The grading plan shall be developed to suitable contour interval with grading details to indicate proposed street grades and elevations and building site grades and elevations.
4. If the development is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the drainage report.
5. Design criteria as specified in the “NYSDEC Stormwater Management Guidelines for New Development.”

Any construction activity shall be in compliance with State Pollutant Discharge Elimination System (“SPDES”) permit requirements for Stormwater Discharges from Construction Activities.

Any activity within fifty (50) feet of a protected stream, including the installation of storm water conveyance systems, will require a New York State Article 15. Protection of Water Permit.

Any development that is located within one hundred (100) feet of a protected wetland, as delineated on the New York State Freshwater Wetlands Map, shall be in compliance with all New York State regulations and permit requirements.

Any development that results in the loss of one-third (1/3) acre or more of waters or wetlands (including areas of hydric soils as indicated on the Soil Survey of Steuben County) shall be in compliance with all U.S. Army Corps of Engineers regulations and permit requirements.

- B. **EROSION AND SEDIMENT CONTROL.** In order to ensure that the land will be developed with a minimum amount of soil erosion, the Village Planning Board shall require the developer to follow certain erosion control practices. The Village Planning Board and the developer shall

consult with the Steuben County Soil and Water Conservation District, as required, and the Soil and Water Conservation District shall determine whether or not the required procedures are being put into practice. Such procedures shall be consistent with the standards specified in “Erosion and Sediment Control Guidelines, Appendix E of New York State Department of Environmental Conservation (SPDES General Permit for Stormwater Discharges from Construction Activities.”

§ 280.113 OPEN SPACE, PARKS AND PLAYGROUNDS

The Village Planning Board may, as a condition of site plan approval, require that specific areas be designated for recreational purposes. Such designation shall depend upon the magnitude and character of the project, and accessibility to existing recreational areas. All lands proposed for parks or recreation purposes shall meet the following minimum standards:

- A. Such land shall either be deeded to the Village or be held in corporate ownership and maintained by an established organization.
- B. Shall have physical characteristics and locations which render them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to minimizing hazards from vehicular traffic for children walking between such facilities and their homes in the neighborhood.
- C. No such area may be smaller than two (2) acres, and in general, recreation areas shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.
- D. A detailed development plan shall be provided for each neighborhood park or playground. As a minimum, the development plan shall provide for an approximately level area at least one hundred seventy-five (175) feet square for children’s field games.
- E. The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

§ 280.114 UTILITIES

- A. **WATER SUPPLY AND SEWAGE DISPOSAL.** Provisions for water supply and sewage disposal shall comply with requirements of the Village of Painted Post, N.Y.S. Health Department and/or N.Y.S. Department of Environmental Conservation.
- B. **UNDERGROUND INSTALLATION.** All utility companies (telephone, electric, etc.) Are now equipped to make underground installation of their services; underground installation shall be required when practical.

§ 280.115 NOISE CONTROL REGULATIONS

- A. **DEFINITIONS.**
 - 1. **Commercial Operation.** Any facility or property used for the purchase or utilization of goods, services, or land or its facilities including, but not limited to:

- A. Commercial Dining Establishments
 - B. Non-commercial Vehicle Operations
 - C. Retail Services
 - D. Wholesale Services
 - E. Banks and Office buildings
 - F. Recreation and Entertainment
 - G. Community Services
 - H. Public Services
 - I. Other Commercial Services
2. **Commercial Motor Vehicle Operations.** Any facility or property used primarily for the dispatching, garaging, servicing, maintaining, selling, or leasing of any truck registered at a gross weight in excess of 6,000 pounds, omnibus, tractor, trailer, semi-trailer, pole trailer, or any vehicle registered in this State engaged in interstate commerce which is now or hereafter subject to regulation and license by the Interstate Commerce Commission and/or the Bureau of Motor Carrier Safety of the Federal Highway Administration.
 3. **Continuous Airborne Sound.** Sound that is measured by slow response setting of a sound level meter.
 4. **Decibel.** A unit for measuring the volume of a sound, equal to twenty (20) times the logarithm of the ratio of the sound pressure of the sound, to the sound pressure of a standard sound (.0002 microbars): abbreviated “dB”.
 5. **dBA.** The measured sound level expressed in dB when using the “A” weighted network of a sound level meter.
 6. **Emergency Energy Release Device.** Emergency safety devices expressly used to release excess energy which do not have regularly scheduled operation. Process control devices are not to be considered emergency devices.
 7. **Frequency.** The number of oscillations per second; expressed in hertz (abbreviation Hz.).
 8. **Impulsive Sound.** Either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second.
 9. **Impulsive Sound Level.** The maximum instantaneous sound pressure level measured by an impulse sound level meter meeting IEC - Publication 179 or the latest revision thereof.
 10. **Industrial Operation.** Any facility or property used for the following:
 - A. Storage, warehouse or distribution, provided that said operation shall not be

construed to be an industrial operation when it is part of a commercial motor vehicle operation as defined herein.

- B. Property used for the production and fabrication of durable and nondurable man-made goods.
 - C. Activities carried out on the property.
11. **IEC.** International Electrotechnic Commission.
12. **Octave Band Sound Pressure Level.** Sound pressure level measured in standard octave bands with sound level meter and octave band analyzer that meet ANSI S 1.4 & S1.11 or the latest revision thereof.
13. **Person.** any individual, public or private corporation, political subdivision, governmental agency, department of bureau of the State, municipality, industry, co-partnership, and association.
14. **Residential Property.** Property containing one or more dwelling units.
- A. Commercial Living Accommodations, commercial property used for human habitation.
 - B. Recreational and entertainment property used for human habitation.
 - C. Community service property used for human habitation.
15. **Sound Level.** The measured level of a sound, expressed in dB re 0.0002 microbars, obtained using a sound level meter. Sound levels include all factors inherent in measuring with a sounds level meter including microphone frequency response, amplifier characteristics, meter damping, observer effects and weighing networks.
16. **Sound Pressure Level.** The sound pressure level, in decibels, of a sound is twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound pressure. Sound pressure level is measured with a sound level meter meeting ANSI - S 1.4 or the latest revision thereof.
17. **Stationary Emergency Signaling Device:** Any device, excluding those attached to motor vehicles, used to alert persons engaged in emergency operations. These include, but are not limited to fire fighters, first aid squad members and law enforcement officers, whether paid or volunteer.

B. NOISE CONTROL LIMITATIONS.

- 1. **Residential Standards.** Upon effective date of this Law, no person shall cause, suffer, allow or permit sound from any operation which when measured at any residential property line is in excess of any of the following:
 - A. Daytime Standards: from 7:00 a.m. to 10:00 p.m.

- Continuous airborne sound which has sound level in excess of 65 dBA, or
- Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the value listed below in 280.115D Octave Band Standards Table.

B. Nighttime Standards: from 10:00 p.m. to 7:00 a.m.

- Continuous airborne sound which has a sound level in excess of 55 dBA, or
- Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below in 280.115D Octave Band Standards Table.

2. **Commercial and Industrial Standards.** No person shall cause, suffer, allow or permit sound from any operation, which when measured at the property line of any industrial or commercial operation is in excess of any of the following:

- A. Continuous airborne sound which has a sound level in excess of 65 dBA, or
- B. Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below 280.115D Octave Band Standards Table.

3. **Octave Band Standards Table.**

Octave Band (Hz)	Octave Band Sound		Center Frequency	Pressure Level (dB)
	Res. Day	Res. Night		
ALL				Com./Ind.
31.5	96	89		96
63	82	75		82
125	74	65		74
250	67	58		67
500	63	53		63
1000	60	50		60
2000	57	47		57
4000	55	45		55
8000	53	43		53

OR,

- Impulsive sound in the air which has an impulsive sound level in excess of 80 decibels.

4. **Stationary Emergency Signaling Devices.**

- A. Upon the effective date of this Law:

1. Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day that a test is performed, but not before 8:00 a.m. Any such testing shall only use the minimum cycle test time.
- B. Stationary emergency signaling devices shall be used only for testing in compliance with applicable provisions of these regulations and for emergency purposes where personnel and equipment are mobilized.
5. **Exceptions.** The operational performance standards established in this section shall not apply to any of the following noise sources:
 - A. Agriculture.
 - B. Bells, chimes or carillons while being used in conjunction with religious services.
 - C. Commercial motor vehicle operations.
 - D. Emergency energy release devices.
 - E. Emergency work to provide electricity, water, or other public utilities when public health or safety are involved.
 - F. National Warning System (NAWAS) - Systems used to warn the community of attack or imminent public danger such as flooding or explosion. These systems are controlled by the N.Y. Civil Defense and Disaster Control Agency.
 - G. Public celebrations.
 - H. Public roadways.
 - I. Surface carriers engaged in commerce by railroad.
 - J. The unamplified human voice.
 - K. Use of explosive devices - These are regulated by the N.Y. Department of Labor and Industry under the 1960 Explosive Act (R.S. 21:1A-1-27).
6. **Performance Test Principle.** For the purposes of measuring sound in accordance with the applicable provisions of these regulations, test equipment methods and procedures shall conform to standards as published by the IEC or its approved equivalent.

§ 280.116 SOLAR ENERGY SYSTEMS AND SOLAR ACCESS

To the maximum extent possible, all new development totaling four (4) or more acres shall be designed so that the maximum number of buildings can receive direct sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. New buildings and vegetation shall be sited with respect to each other and the topography of the site so that unobstructed direct sunlight reaches the south wall or

rooftop of the greatest possible number of buildings according to the following standards:

- A. Solar access shall, to the greatest extent possible, be protected between the solar azimuths of -45 degrees (west of due south).
- B. considering dimensional relief permitted in Article V and VI, the Village Planning Board shall also consider solar access and design considerations.
- C. purposes of solar access, streets, lots and buildings setbacks should be designed so that the buildings are oriented with their long axes running from east to west for single-family development and north to south for townhouse and multi-family development.
- D. order to maximize solar access, the highest densities shall to the maximum extent possible be placed on the south-facing slopes with lower densities sited on north-facing slopes.
- E. Streets should be oriented on an east-west axis to the greatest extent possible.
- F. Buildings shall to the greatest extent possible be sited as close to the north lot line or lines to increase yard space to the south for better owner control of shading.
- G. Tall buildings shall to the greatest extent possible be sited to the north of shorter ones and be buffered from adjacent development.
- H. Existing vegetation shall be retained and incorporated into design as practicable.
- I. A description of any mechanisms, such as deed restrictions, covenants, etc., that are to be applied shall be provided.

§ 280.117 STORAGE OF VEHICLES, CAMPERS, TRAILERS AND BOATS

- A. All travel trailer, campers, boats, or similar recreational vehicles shall not be stored for more than thirty (30) days per calendar on a residential lot outside of buildings thereon except to the rear of the principal dwelling and within the side and rear setbacks applicable to said lot.
- B. No such vehicle shall be parked or stored on a vacant lot unless granted a special use permit to do so.

§ 280.118 AMUSEMENT GAME CENTER

- A. A continuous commercial use may operate up to two (2) amusement game machines.
- B. The operation of three or more amusement game machines by any commercial use shall constitute an amusement game center. Such center shall be subject to the following standards:
 - 1. One and one-half (1 ½) parking spaces per game shall be required in addition to the parking standards set forth in Section 280.103B.
 - 2. In the case that the amusement game center is the principal commercial use, the hours of operation shall fall within the hours of 9:30 a.m. to 9:30 p.m.

3. In no case shall the operation of an amusement game center result in vehicular or bicycle traffic, or other activities that will create a nuisance or be detrimental to adjacent businesses.

§ 280.119 FINISHED GRADE REGULATION

The difference of any two finished grade elevations around the periphery of the building shall not exceed one-half the floor to ceiling height.

§ 280.120 SATELLITE TV ANTENNAS

No satellite television antenna of any kind may be erected or established in the Village except in conformance with the standards in this section.

A. SATELLITE ANTENNA SIZE.

1. In residential and business zones, satellite antennas shall not exceed twelve (12) feet in diameter.
2. In all other zones, antennas shall not exceed fifteen (15) feet in diameter.
3. In residential and business zones, the total height of ground-mounted antennas shall not exceed fifteen (15) feet above the ground.
4. In all other zones, the total height of ground-mounted antennas shall not exceed twenty (20) feet in height above the ground.
5. In all districts, roof-mounted installations shall not exceed the height restrictions as set for the zoning district within which the installation is placed.

B. SATELLITE ANTENNA LOCATION.

1. In any industrial zone, such antenna may be located anywhere on the lot or building thereon.
2. In a residential or commercial zone, subject to the provisions contained herein, such antenna shall be located only in the rear yard of any lot provided that such antenna is located a least five (5) feet from any principal building and lot line. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property subject to the approval of a special use permit. For purposes of this Law a usable satellite signal is a satellite signal which when viewed on a conventional television set, is a least equal in picture quality to that received from local commercial television stations or by way of cable television.
3. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure, provided that a special use permit is obtained prior to such installation. Such permit shall be issued upon a showing by the applicant that a usable satellite signal is not obtainable from any other location on the property, and provided

further, that the construction and erection otherwise is in compliance with the applicable building code and electrical code.

C. GENERAL PROVISIONS.

1. Except in an industrial zone, satellite television antennas shall be located and designed to reduce visual impacts from surrounding properties at street level and from public streets.
2. Not more than one satellite television antenna shall be allowed in any residential zone on any lot less than one-half (1/2) acre in size.
3. All antennas and the construction and installation thereof shall conform to applicable building and electrical code regulations and requirements.
4. Antennas shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.
5. Every antenna must be adequately grounded for protection against a direct strike by lightning.

§ 280.121 STANDARD DESIGNED MANUFACTURED HOMES

Single lot Standard Designed Manufactured Homes are allowed as specified in the Schedule of Uses Table, Section 280.18, subject to a Special Use Permit approval and shall meet the minimum lot size and setback requirements for a residential use in said district.

A. STANDARD DESIGNED MANUFACTURED HOME STANDARDS. All Standard Designed Manufactured Homes installed in the Village of Painted Post shall meet the following minimum requirements:

1. Minimum size - 720 square feet.
2. No less than two (2) means of exit.
3. The home(s) must be properly connected to the municipal water and sewer system as approved by the Village.
4. The home must be properly installed per the Manufacturer's Installation Manual. In the event that the Manufacturer's Installation Manual is not provided, the home, must be installed according to ANSI A225.1 (1994).
5. Skirting or a curtain wall, unpierced except for required ventilation and access door must be installed and may consist of brick masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation.
6. Permanent landing and steps with handrails are required at each exterior doorway. The structure must include steps which lead to the ground level.

B. TEMPORARY LOCATION. A Standard Designed Manufactured Home to be used as a temporary business office, storehouse or construction field office may be temporarily located

within any zoning district. Such temporary location, however, shall be subject to the site plan provision and shall be allowed for a period not to exceed six (6) months. This time limit may be extended if in the opinion of the Code Enforcement Officer, such extension is a proper continuance of the temporary purpose.

§ 280.122 **COMMUNICATIONS TOWERS**

No communications tower shall hereafter be used, erected, moved, or modified except after the granting of a Special Use Permit by the Village Planning Board in conformity with the provisions of this section. No existing structure shall be modified to serve as a communications tower unless in conformity with this section.

In reviewing an application for a special permit for a communications tower, the Planning Board shall, at a minimum, require that the following criteria be met:

A. **SITE LOCATION.**

1. Documentation of the need for the use of the site proposed. Higher intensity/density sites are preferred in the following order:
 - A. Property with an existing structure suitable for co-location.
 - B. Industrial Districts.
 - C. Rural Districts
2. A completed Visual Environmental Assessment Form (visual EAF), including simulated photographic visualization of the site, with attention to visibility from key view points.

B. **HEIGHT.** Documentation of the minimum height necessary for the applicant's needs.

C. **CO-LOCATION AND USE OF PREEXISTING STRUCTURES.**

1. Applicants are encouraged to provide their towers for use by other carriers, to co-locate on existing towers or locate antenna on existing structures. An application must include an inventory of existing towers within a reasonable distance of the proposed site with documentation of intent from an existing tower owner to allow co-location.
2. Inventory of pre-existing structures as alternatives to new construction.
3. If 1 or 2 above are not feasible, communications tower design to accommodate future demand for additional facilities. This requirement may be waived by the Planning Board, provided that the applicant demonstrates that future shared usage is not feasible based upon:
 - A. The number of Federal Communications Commission (FCC) licences anticipated for the area.
 - B. The number of existing and potential licences without tower spaces/sites.

- C. Available spaces on existing and approved towers.
- D. Potential adverse visual impact by a tower designed for co-location.

D. SETBACKS.

- 1. Communication towers, guy wire anchors and any accessory structures shall be erected no nearer to a lot line than the greater of:
 - A. The required setback as specified in the Density Control Schedule, or
 - B. The tower height plus the tallest antenna.

E. VISIBILITY AND AESTHETICS.

- 1. Monopoles or guyed towers shall be preferred to freestanding communication towers.
- 2. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree lines, unless other standards are required by the FAA. Towers shall be designed and sited to avoid the application of FAA lighting and painting requirements.
- 3. Accessory facilities shall maximize use of location, building materials, colors and textures designed to blend with natural surroundings.
- 4. No communications tower, antenna or accessory facility shall contain any signs or advertising devices.

F. EXISTING VEGETATION. Existing on-site vegetation shall be preserved to the maximum extent possible.

G. FENCING AND SCREENING.

- 1. Screening of communication towers shall comply with standards set forth in Section 130-58.
- 2. All communications towers and accessory facilities shall be enclosed by a fence not less than six (6) feet in height or otherwise sufficiently protected from trespassing and vandalism. Any guy supports shall be sleeved, visibly marked or entirely fenced in to a height of eight (8) feet above the finished grade to protect against accidental impact by persons or animals.

H. ACCESS. Access is required to assure adequate emergency and service access. Construction of pervious roadways (crushed stone, gravel, etc.) are preferred.

I. RADIO FREQUENCY EFFECTS. Communications antennas may be operated only at FCC frequencies and power levels unless otherwise justified.

J. APPLICANT BUILD-OUT PLAN

1. A build-out plan will include:
2. A map of the applicant's current facilities in the Village.
3. Potential locations for additional facilities within the next twenty-four (24) months.
4. A description of the proposed facility's impact on existing communication towers in the Village.
5. A map of discontinued or relocated facilities.
6. A build-out plan and certification of use of existing facilities shall be submitted by January 31 of each year, including any further application for additional facilities.

K. REMOVAL OF FACILITIES.

1. Upon abandonment the applicant shall remove any and all communication structures immediately upon the discontinuance of the permitted use, shall reasonably restore the site and shall incur all expenses related to the abandonment.
2. The applicant shall post a bond or other surety to be renewed annually with the Village of Painted Post to ensure #1 above.

L. EXCEPTIONS. The provisions of this section shall not apply to the following:

1. Individual, scientific, medical, weather, navigational, military, or government radar antennas and associated communication towers.
2. Pre-existing towers including repair and maintenance of existing communication towers and antennas.
3. Antennas used solely for the residential household television and radio reception.

§280.123 NEWSRACKS

The uncontrolled placement of newsracks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services. Unsightly and poorly maintained newsracks constitute public nuisances because they are a blight degrading the visual quality of the Village and because of their potential danger to users.

- A. All distributors requiring the use of newsracks shall obtain a Special Use Permit issued by the Village Planning Board.
 1. As an express condition of the acceptance of such permit, the distributor thereby agrees to and does indemnify and hold harmless the Village of Painted Post, its officers and

employees against any loss or liability or cost or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use, or maintenance of any newsrack within the Village.

2. Such Special Use Permits shall be valid for one year and shall be renewable pursuant to the procedures established in Article XII and the fee schedule as set by the Village Board under Article XVI.
3. Stickers showing the permit number shall be issued with the permit and must be displayed at all times, on the front of each newsrack.

B. Any newsrack which in whole or in part rests upon, in or over any sidewalk or curb area, shall comply with the following standards:

1. No newsrack shall exceed forty-nine (49) inches in height from the ground of the curb area or sidewalk, as the case may be, or twenty (20) inches in width or in depth.
2. No newsrack shall be used in any manner, to advertise or publicize any product, name, entity or idea other than to display, sell, or distribute the newspaper or news or informational periodical distributed therein.
3. Each newsrack, if such newspaper, news or informational periodical contained within is for sale to the public at a cost, shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the publication paid for. The coin-return mechanism in every such newsrack shall be maintained in good working order.
4. Each newsrack shall have affixed to it, in a readily visible place, a notice stating the name, address, and telephone number of the distributor to call in order to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, if the newsrack has one.
5. No newsrack shall be placed in the vision clearance area at an intersection (See section 280.110).
6. Newsracks shall be maintained in a clean, painted, working condition square to the ground. When a box becomes rusted, inoperable, skewed or in similar disrepair, it shall be deemed a violation of the zoning law and enforcement action will be taken.
7. Newsracks shall not be placed as to be an inconvenience to pedestrians.
 - A. It is not within three (3) feet ahead or fifteen (15) feet to the rear, with respect to the direction of vehicular traffic, of any sign marking a designated bus stop.
 - B. It is not within three (3) feet of the outer ends of any bus bench.
 - C. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6) feet.
 - D. It is not within three (3) feet of or on any public area improved with lawn,

flowers, shrubs, trees or other landscaping.

E. It is not on or within ten (10) feet of any handicap access ramp.

8. Newsracks shall be secured to the ground or structures in a manner acceptable to the Planning Board.

9. A newsrack is not within one hundred (100) feet of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.

§ 280.124 (Reserved)

§ 280.125 (Reserved)

§ 280.126 (Reserved)

§ 280.127 (Reserved)

**ARTICLE X
NON-CONFORMING BUILDINGS AND USES**

§ 280.128 CONTINUATION OF NON-CONFORMING BUILDINGS, USES, LOTS

Any lawful buildings, structure or use existing at the time of enactment of this Zoning Law may be continued and maintained in reasonable repair even though such building, structure or use does not conform to the provisions of this Law. However, any alterations and/or extensions to such a building, structure or use shall not deviate from the standards of this Law.

§ 280.129 DISCONTINUANCE

Whenever a non-conforming use has been discontinued or inoperative for any reason whatsoever for a period of six (6) months, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Law. When a non-conforming use is converted to a use permitted in the district in which it is located, such a use shall not thereafter be converted back to any of the uses not permitted within the district.

§ 280.130 NECESSARY MAINTENANCE AND REPAIRS

A building or structure of non-conforming use may be repaired or restored to a safe condition. However, any building or structure which is damaged by any cause shall be demolished if in the written opinion of the Enforcement Officer the building or structure represents a threat to the health, safety and welfare of the people of the Village.

Any building or structure ordered demolished by the Enforcement Officer shall be demolished within ninety (90) days of the formal written notice to the owner by the Enforcement Officer.

§ 280.131 CHANGE TO OTHER NON-CONFORMING USE

A non-conforming use of a building, structure or land may be changed to another non-conforming use more nearly conforming to the requirements of the district in which it is situated upon approval of the Planning Board in accordance with Article VIII Site Plan Review Process.

§ 280.132 CONSTRUCTION STARTED PRIOR TO THIS ZONING LAW

Any building or structure for which construction was begun prior to the effective date of this Law, or any subsequent applicable amendment, may be completed and used in accordance with the plans and specifications for the building or structure.

§ 280.133 CONSTRUCTION ON EXISTING UNDERSIZED LOTS

- A. Any lot held in single and separate ownership prior to the adoption of this Zoning Law and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Zoning Law for the district, may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:
 - 1. Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.

2. Such lot has an area of at least 4,000 square feet and a minimum width of at least forty (40) feet at the required set-back line if it is to be used for residential purposes.
 3. All other bulk schedule requirements for that district are complied with.
- B. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.
- C. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owner's property or properties.

§ 280.134 REDUCTION IN LOT AREA

No lot shall be reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this Law.

- § 280.135 (Reserved)
§ 280.136 (Reserved)
§ 280.137 (Reserved)
§ 280.138 (Reserved)
§ 280.139 (Reserved)

ARTICLE XI
ZONING BOARD OF APPEALS

§ 280.140 ESTABLISHMENT AND DUTIES

Pursuant to Village Law Section 7-712, the Village Board of Trustees shall create a Zoning Board of Appeals consisting of five members. The mayor shall appoint the Zoning Board of Appeals and shall designate its Chairman subject to the approval of the Village Board of Trustees. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson. In making such appointment, the Village Board of Trustees may require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members. A member of the Zoning Board of Appeals shall not at the same time be a member of the Village Board of Trustees.

Removal of members. The mayor shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by local law.

- A. **TERM OF APPOINTMENT.** In the creation of a new Zoning Board of Appeals, or the re-establishment of terms of an existing board, the appointment of members to the board shall be of terms so fixed that one member's term shall expire at the end of the Village official year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each official year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed by the Village Board of Trustees for a term of five years.

- B. **TERMS OF MEMBERS NOW IN OFFICE.** Members now holding office for terms which do not expire at the end of a year shall, upon expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms of five (5) years.

- C. **VACANCY IN OFFICE.** If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Mayor by appointment for the unexpired term.

- D. **ASSISTANCE TO THE ZONING BOARD OF APPEALS.** The Village Board of Trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper not exceeding the appropriation made by the Village Board of Trustees for such purpose. Such Board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village board of trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

- E. **RULES OF PROCEDURE, BY-LAWS, FORMS.** The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Zoning Law. Such rules, by-laws, and forms shall not be in conflict with, nor have the effect of waiving, any provisions of this Zoning Law or any other local law or ordinance of the Village of Painted Post. Such rules, by-laws, and forms, and any subsequent amendments or supplements thereto, shall be submitted to the Village Board of Trustees by the Zoning Board of Appeals for approval and filing for public view. The Village Board of Trustees shall move to approve, reject,

or modify such rules, by-laws, and forms within six (6) days after submission. Failure of the Village Board of Trustees to so move shall be construed to constitute approval thereof.

- F. **MEETINGS.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public to the extent provided in article seven of the public officers law. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media at least seventy-two hours before such meeting. Public notice of the time and place of every other meeting shall be given, in one or more designated public locations at a reasonable time prior thereto. The public notice provided for by this section shall not be construed to require publication as a legal notice.
- G. **MEETING MINUTES.** The Zoning Board of Appeals shall keep minutes of its proceedings showing the substance of its deliberations and the vote on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. 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 Village Clerk within five business days and shall be a public record.
- H. **REFERRALS TO THE PLANNING BOARD.** At least fourteen (14) days before the date of a hearing held in connection with any appeal or application submitted to the Zoning Board of Appeals, said Board shall transmit to the Planning Board a copy of said appeal or application, and shall request that the Planning Board submit to the Zoning 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 said public hearing.

§ 280.141 PUBLIC NOTICE AND HEARING

- A. **PUBLIC NOTICE.** Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with the Village Law as follows:
 - 1. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Village of Painted Post not less than five (5) days prior to the date of such hearing.
 - 2. By giving written notice of hearing to any appellant or applicant, and any other such notice to property owners in an affected area as may be required by the Zoning Board of Appeals, to the Planning Board, and to the Village Board not less than five (5) days prior to such hearing.
 - 3. By giving written notice of hearing at least five days before such hearing to any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by Section 239M of the General Municipal Law accompanied by a full statement of the matter under consideration.
- B. **COSTS.** The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

§ 280.142 APPEALS

Hearing appeals. Unless otherwise provide by local law, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of the zoning law. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

- A. Notice of Appeal shall be filed with the Enforcement Officer and the Secretary to the Zoning Board of Appeals in writing, in a form required by such Board, within sixty (60) days after the filing in the Village clerk's office of any order, requirement, decision interpretation or determination of the Enforcement Officer specifying the grounds thereof and the relief sought.
- B. Upon filing of a Notice of Appeal and payment of a filing fee according to the schedule of fees on file with the Village Clerk by the appellant or applicant, the Enforcement Officer shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- C. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal The Zoning Board of Appeals shall decide on the appeal within sixty-two (62) days after the final hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.
- D. **STAY UPON APPEAL.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the Zoning Board of Appeals, after Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Enforcement Officer and on due cause shown.
- E. **ACTION BY THE BOARD.** Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to be made in the matter by the Enforcement Officer and to that end shall have all the power of the Enforcement Officer.
- F. **FILING OF DECISION AND NOTICE.** The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- G. **COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT.** The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.

- H. **REHEARING.** A motion of the Zoning Board of Appeals to hold a rehearing to review any order, decision, or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members present provided the board finds that the rights vested in the persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

§ 280.143 **VARIANCES**

There are two types of variances on which the Zoning Board of Appeals will act: area variance and use variance.

A. **AREA VARIANCES.**

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Enforcement Officer, shall have the power to grant use variances as defined herein.
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the community or neighborhood by such grant. In making such determination the Board shall also consider:
 - A. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance;
 - B. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - C. whether the requested area variance is substantial;
 - D. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
 - E. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
3. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. **USE VARIANCE.**

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Enforcement Officer, shall have the power to grant use variances as defined herein.

2. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
 - A. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - B. the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - C. the requested use variance, if granted, will not alter the essential character of the neighborhood;
 - D. that the alleged hardship has not been self-created.
 3. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- C. **APPLICATIONS FOR VARIANCES.** All applications for variances shall be filed with the Enforcement Officer and the Secretary of the Zoning Board of Appeals in writing, shall be made in a form required by the Zoning Board of Appeals, and shall be accompanied by payment of filing fee (as determined by the Village Board of Trustees) and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
- D. **REFERRAL TO THE PLANNING BOARD.** Every proposed variance shall be referred to the Planning Board by the Secretary of the Zoning Board of Appeals prior to any action by the Zoning Board of Appeals, for a recommendation as to the appropriateness of said variance. The Planning Board's recommendation shall make reference to the effect of the variance on the intent of the Zoning Law and its relation to the Comprehensive Plan. If the Planning Board fails to present a recommendation to the Zoning Board of Appeals within forty-five (45) days of the date of a referral, the Zoning Board of Appeals may act without such recommendation. The Zoning Board of Appeals shall not act contrary to the Planning Board's recommendation, except by adoption of a resolution which fully states the reasons for such action.
- E. **EXPIRATION OF A VARIANCE.** Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.
- F. **IMPOSITION OF CONDITIONS.** Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of property. These conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact that the variance may have on the neighborhood or community.

- § 280.144 (Reserved)
- § 280.145 (Reserved)
- § 280.146 (Reserved)
- § 280.147 (Reserved)
- § 280.148 (Reserved)

**ARTICLE XII
SPECIAL USE PERMITS**

§ 280.149 AUTHORIZATION

As authorized in Section 7-725-b of Village Law, the Village Board of Trustees authorizes the Planning Board, after public notice and hearing, to grant Special Use Permits in the classes of uses as specified in this Zoning Law, Section 280.18 Schedule of Uses.

§280.150 APPLICATION

All applications for Special Use Permits shall be filed with the Enforcement Officer in writing, shall be made in a form required by the Planning Board, and shall be accompanied by payment of a filing fee as set by Village Board resolution according to the schedule of fees on file with the Village Clerk.

§ 280.151 REQUIRED PLAN AND OPERATIONAL DETAILS

An application for a Special Use Permit shall be accompanied by plans, and other descriptive matter in accordance with Article 8 Site Plan Review Process. The operation details shall include the nature of the operation, hours of operation, occupancy levels, emitted noise levels, anticipated pedestrian and vehicular traffic rates, water consumption, sewage usage and other information necessary to determine if the proposed special use meets requirements of this Law.

§ 280.152 WAIVER OF REQUIREMENTS

The Planning Board may waive any such requirements that are clearly not relevant to the site and the proposed use.

§ 280.153 CONDITIONS

The Planning Board is authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of the special use permit, any such conditions must be met in connection with the issuance of permits by the Enforcement Officer.

§ 280.154 APPLICATION FOR AREA VARIANCE

Where a proposed special use permit 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 in accordance with Article XI of the Zoning Law, without the necessity of a decision or determination of the Enforcement Officer.

§ 280.155 PUBLIC HEARING

A. **REQUIREMENT.** In every case where a Special Use Permit is required by this Law, the Planning Board shall issue such permit only after:

1. A public hearing has been held.

B. **CONDUCT.** The public hearing shall be conducted within sixty-two (62) days from the day a complete application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Village at least five (5) days prior to the date of the public hearing. The

Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Village clerk within five business days after such decision is rendered, and a copy mailed to the applicant.

§ 280.156 NOTICE

The Planning Board shall mail written notice of hearing at least ten days before such hearing to the Village Board of Trustees and any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by section two hundred thirty-nine-m of the general municipal law accompanied by a full statement of the matter under consideration.

§ 280.157 COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight (8) of the Environmental Conservation Law and its implementing regulations as codified in Title Six (6), Part Six Hundred Seventeen (617) of the New York Codes, Rules and Regulations.

§ 280.158 STANDARDS APPLICABLE TO ALL SPECIAL USES

The Planning Board may issue a Special Use Permit only after it has found that all the following standards and conditions have been satisfied.

- A. Location, size of use and structure, nature and intensity of operations involved, nearness of other traffic producing operations, size of site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with orderly development of the district.
- B. Location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.
- C. No Special Use Permit shall be issued for a use on a property where there is an existing violation of this Law.
- D. Any Special Use Permit which is not exercised within one year from the date of issuance is hereby declared to be revoked .
- E. Special Use Permits shall be reapplied for upon change of use.
- F. Any substantial deviation or abuse of the terms of a Special Use Permit shall be considered a violation of this Zoning Law.

§ 280.159 RELIEF FROM DECISION

Any person or persons, jointly or severally aggrieved by any decision of the Planning Board may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 280.160 **COSTS**

Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

§ 280.161 **PREFERENCE**

All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

§ 280.162 (Reserved)

§ 280.163 (Reserved)

§ 280.164 (Reserved)

§ 280.165 (Reserved)

**ARTICLE XIII
AMENDMENTS**

§ 280.166 PROCEDURE

The Village 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 Zoning Law after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Village Board, and if on behalf of a petitioner shall be accompanied by a certified check in the amount shown on the schedule of fees on file with the Village Clerk to help defray the cost of advertising the hearing on said proposed amendment and incidental disbursement.

§ 280.167 APPLICATION FOR AN AMENDMENT

A property owner(s) or his agent(s) may initiate a request for an amendment to this Law by filing an application with the Enforcement Officer. Such application shall be accompanied by a legal description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof and a filing fee as required in Article XVI, no part of which is returnable.

§ 280.168 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 Village Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Village Board, the Village Board may act without such report. If the Planning Board disapproves the proposed amendment, or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

§ 280.169 PUBLIC NOTICE AND HEARING

The Village Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. 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 Village not less than five (5) days prior to the date of the public hearing.
- B. By giving written notice of hearing to any required Municipal, County, Regional, Metropolitan, State, or Federal agency in the manner prescribed by Law.

§ 280.170 DECISION BY VILLAGE BOARD OF TRUSTEES

The Board of Trustees shall set the matter for public hearing as required and shall render its decision within sixty (60) days of the public hearing after the receipt of the report and recommendations of the Planning Board. If the Board of Trustees proposes to adopt an amendment that is substantially altered from the recommendation of the Planning Board, the Board of Trustees shall refer said proposed amendment back to the Planning Board for report and recommendation, before adoption. The Planning Board shall consider and report on said

amendment within thirty (30) days of receipt of said referral. Failure of the Planning Board to so report within the aforesaid thirty (30) days will be deemed to constitute approval by the Planning Board.

§ 280.171 NOTIFICATION OF DECISION

The Village Board of Trustees shall notify the applicant for amendment in writing of the Board's decision within five (5) days after the decision has been rendered.

§ 280.172 PROTEST BY OWNERS

If a protest against the proposed amendment is presented to the Village Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the area of land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least four members of the Village Board.

§ 280.173 FILING WITH THE SECRETARY OF STATE

Every amendment in this Local Law shall be filed with the Secretary of State of New York State and become effective five (5) days thereafter.

- § 280.174 (Reserved)
- § 280.175 (Reserved)
- § 280.176 (Reserved)
- § 280.177 (Reserved)
- § 280.178 (Reserved)

**ARTICLE XIV
ADMINISTRATION**

§ 280.179 ENFORCEMENT

This Law shall be enforced by the Enforcement Officer, who shall be appointed by the Village Board of Trustees. No building permit shall be issued by him except where all the provisions of this Law have been complied with. He shall keep the Board of Zoning Appeals advised of all matters pertaining to the enforcement of this Law other than routine duties, and shall submit a monthly report to the Village Board of Trustees enumerating the applications received, inspections made, permits issued or refused, and other action taken.

§ 280.180 ZONING PERMIT

No development which is subject to site plan review shall begin before site plan approval is obtained from the Village Planning Board and before a permit thereof has been issued by the Code Enforcement Officer and applicable fees paid to the Village Clerk. Except on written order of the Zoning Board of Appeals, no such zoning permit shall be issued for any development where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Law.

- A. There shall be submitted with all applications for zoning permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Law.
- B. One copy of such layout or plot plan shall be returned when approved by the Enforcement Officer together with such permit to the applicant upon the payment of a fee according to the schedule of fees on file with the Village Clerk.
- C. Upon approval of the application, and upon receipt of required fees therefore, the Enforcement Officer shall issue a zoning permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.
- D. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the files of the Enforcement Officer and the other set shall be returned to the applicant together with the zoning permit and shall be kept at the building site open to inspection by the Enforcement Officer or his authorized representative at all reasonable times.
- E. If the application together with the plan, specifications and other documents filed therewith, describe proposed work which does not conform to all the requirements of the applicable zoning regulations, the Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Enforcement Officer shall show cause for the refusal, together with the reasons therefore, to be transmitted to the applicant in writing.

§ 280.181 BUILDING PERMITS

No building or structure shall be erected, added to, or structurally altered until a building permit thereof has been issued by the Enforcement Officer and applicable fees paid to the Village Clerk.

§ 280.182 **CERTIFICATE OF OCCUPANCY**

No land shall be used or occupied and no building or structure hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Enforcement Officer in accordance with the provisions of applicable Village Laws and Codes.

All certifications of occupancy for new or altered buildings or structures shall be applied for coincident with the application for a building permit therefore. Such certificate of occupancy shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this Zoning Law.

- § 280.183 (Reserved)
- § 280.184 (Reserved)
- § 280.185 (Reserved)
- § 280.186 (Reserved)
- § 280.187 (Reserved)

**ARTICLE XV
REMEDIES**

§ 280.188 PENALTY

Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed, or there exists anything in violation of any of the provisions of this Law: and any person who shall assist in the commission of any violation of this Law or any conditions imposed by the Village Board of Trustees, Planning Board or the Zoning Board of Appeals; or who shall build, contrary to the plans and specifications submitted to the Enforcement Officer and by him certified as complying with this Law shall be guilty of a misdemeanor and subject to a fine of not less than fifty (50) dollars or more than one hundred (100) dollars, or to imprisonment for a period of not less than one (1) day, or more than thirty (30) days, or both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation, omission, neglect, or refusal shall continue.

§ 280.189 ALTERNATIVE PENALTY

In cases of any violation or threatened violation of any of the provisions of this Law, or conditions imposed by the Village Board of Trustees, Planning Board, Enforcement Officer, or Zoning Board of Appeals, in addition to other remedies herein provided, the Board of Trustees may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

- § 280.190 (Reserved)
- § 280.191 (Reserved)
- § 280.192 (Reserved)
- § 280.193 (Reserved)
- § 280.194 (Reserved)

**ARTICLE XVI
FEE SCHEDULE**

§ 280.195

Schedule of fees for all building permits and applications shall be set by Village Board of Trustees resolution from time to time.

- § 280.196 (Reserved)
- § 280.197 (Reserved)
- § 280.198 (Reserved)
- § 280.199 (Reserved)
- § 280.200 (Reserved)