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# VILLAGE OF FAIR HAVEN

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## Zoning Law

Originally Adopted October 17, 1977  
Amended on October 1, 1990; November 9, 2006;  
June 9, 2014; and April 22, 2019

2019 Amendments:

Text that has been added is shown in blue: **EXAMPLE**

Text that has been deleted is shown crossed out in red: ~~**EXAMPLE**~~

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ZONING**

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**ARTICLE I****Title; Purpose; Terminology****§ 150-1. Title.**

This chapter shall be known and cited as the "Village of Fair Haven Zoning Law."

**§ 150-2. Purpose.**

Such regulations shall be made to promote the health, safety, morals and general welfare of the community; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid concentrations of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements under and pursuant to Article 7 of the Village Law of the State of New York. The size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, the density of population and the use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

**§ 150-3. Definitions and word usage.**

A. For the purpose of this chapter, words and terms used herein shall be interpreted as follows;

- (1) Words used in the present tense include the future.
- (2) The singular includes the plural.
- (3) The word "person" includes a corporation, partnership and, as well, the individual.
- (4) The word "lot" includes the word "plot" or "parcel."
- (5) The term "shall" is mandatory.
- (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 occupied."

B. Any word or term not defined herein shall be used with a meaning of standard usage.

C. Unless a contrary intention clearly appears, the following words and phrases shall have, for the purpose of this chapter, the meanings given in the following clauses:

**ACCENT COLOR** — A color in a building's color palette which is used for emphasis. This color can be more bold or vivid than the Body or Trim color, but should be used sparingly to create emphasis, contrast, or rhythm.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use, which is located on the same lot.

**ACCESSORY BUILDING** — A subordinate building located on the same lot as a principal building and clearly incidental and subordinate to the principal building. This definition, does not include sheds as defined, regulated, and permitted under Chapter 117 of the Village of Fair Haven Code.

**ALTERATIONS** — As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

## AREA —

- (1) LOT AREA — The total area contained within the property lines of an individual parcel of land, excluding any area within existing street right-of-way.
- (2) BUILDING AREA — The total or areas taken on horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.
- (3) FLOOR AREA — The sum of the gross horizontal area of the several floors of a building, excluding cellar and basement floor areas not devoted to residential use. "Floor area" does not include cellars, unenclosed porches or accessory buildings not used for human occupancy.

**AUTOMOTIVE BUSINESS** — Shall include the repair of vehicles and sale of gasoline, but not including junkyards or parts-reclamation businesses.

- (1) All activities, except those required to be performed at fuel pumps, shall be carried on within a completely enclosed building.
- (2) Fuel pumps may be located within the front yard area of the lot, but shall be at least 15 feet from any right-of-way.

**AWNING/CANOPY** — A roof-like structure of fabric stretched over a ridged frame, designed and intended for protection from weather or as a decorative embellishment, and which projects from the façade of a building over a window or door.

**BASEMENT** — A story partly underground, but having 50% or more of its height, measured from floor to ceiling above the grade plane. A basement shall be counted as a story for the purpose of determining the number of stories and floor area.

**BAY** – A major spatial division, usually one of a series, marked or partitioned off by the principal vertical supports of a structure.

**BED AND BREAKFAST** – A transient lodging establishment in a single-family dwelling with five (5) or fewer rooms for rent; is occupied full-time by an owner or operator; and in which the only meal served to guests is breakfast.

**BODY COLOR** – The main color of a building's color palette used over the majority of the façade surface. Can be a paint color or a natural building material i.e. brick.

## BUILDING —

- (1) BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or property.
- ~~(2) BUILDING, ACCESSORY — A subordinate building located on the same lot as a principal building and clearly incidental and subordinate to the principal building; any portion of a principal building devoted or intended to be devoted to an "accessory building."~~
- (3) BUILDING, PRINCIPAL — A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.

~~**BUILDING COVERAGE** — The percentage of the plot or lot area covered by the building area.~~

**BUILDING HEIGHT**— The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and mean height between eaves of mansard roofs and the mean height between eaves and the ridge for gable, hip and gambrel roofs.

**BUILD-TO-LINE** — A line parallel to the property line along which a building shall be built. Usually used to ensure that the front façade of adjacent buildings are even with one another.

**CELLAR** — A story, partly underground and having more than 50% of its height, measured from floor to ceiling, below the grade plane. A cellar shall not be considered in determining the permissible number of stories and floor area.

**CONTRACTING BUSINESS** — Shall include but not be limited to the following: electrical, heating, masonry and general construction.

**CRAFT BEVERAGE INDUSTRY** — Land and buildings used for the production and sale of craft beverages, including offering of tastings with or without an accessory restaurant use. Examples of craft beverage industries include wineries, breweries, cideries, and distilleries; and includes operations that are classified as either a “regular”, “farm”, “special”, or “micro” based operation by the NYS Alcohol and Beverage Control Law.

**CUSTOMARY AGRICULTURAL ACTIVITIES** — The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation.

**DWELLING** —

- (1) **DORMITORY** — A building or part thereof used as group quarters for unrelated individuals sharing common cooking, social and hygienic facilities.
- (2) **DWELLING** — A building designed or used exclusively for living quarters for one or more families.
- (3) **ONE-FAMILY DWELLING** — A detached building designed for or occupied exclusively by one family. The term "one-family dwelling" shall not include "mobile homes" or "manufactured homes" as those terms are defined in Chapter 91, Manufactured Homes, of the Code of the Village of Fair Haven. **[Amended 6-9-2014 by L.L. No. 1-2014]**
- (4) **DWELLING UNIT** — Any room or group of rooms located within a residential building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
- (5) **TWO-FAMILY DWELLING** — A building designed for or occupied exclusively by two families living independently of each other.
- (6) **MULTIPLE DWELLING** — A building or portion thereof containing three or more dwelling units.

**EDUCATIONAL USE** — The use of land or a building or buildings as or for the establishment of a public or private college, secondary or elementary school or other educational institution.

**FAÇADE** — The front of a building or any of its sides facing a public right-of-way or space, especially one distinguished by its architectural treatment.

**FAMILY** — One or more person living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

**FINANCIAL INSTITUTION** — Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments, etc.

**FLAT ROOF** — A roof having no slope, or one with only a slight pitch so as to drain rainwater.

**FREE STANDING SIGN** — A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign.

**GENERAL MAINTENANCE** — For the purposes of this definition, general maintenance shall apply to exterior building elements, including but not limited to the roof, façade, windows, doors, trim, or other architectural elements. General maintenance shall be deemed as any cleaning, replacement, or repair of a minor part or parts of a building or structure which are defective or have been degraded by ordinary wear and tear or by the weather which may or may not require a building permit; is not considered construction, relocation, or alteration; and which does not alter the basic design or structure of the building. Painting is considered general maintenance.

**GRADE PLANE** — A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the referenced plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

**GROUND FLOOR** — The floor of a building at or nearest to ground level.

**HOME OCCUPATION** — An activity customarily carried on in a dwelling unit or in a building or other accessory structure to a dwelling unit, for profit, by members of the immediate family residing in that dwelling unit; and which activity is clearly incidental to the principal use of any dwelling. In particular, a home occupation includes the following or similar uses: accountant, billing service, or bookkeeper; answering service; architect or engineer; artist or graphic designer studio; author or writer; beauty or barber shop; business support service; chiropractor or massage therapist; consultant service; daycare for less than six children or adults at any one time as permitted and licensed by the state; dressmaking or tailor shop; financial planner; foundation or not-for-profit; handcrafts shop; lawyer; management consultant; photographer; software or website engineer or developer; or tutor and/or educational services (of not more than four pupils simultaneously). The following uses are not considered to be home occupations: shooting ranges using either guns or archery equipment; automotive repair or sales; heavy equipment repair; gun and ammunition sales, repair, or manufacture; and taxidermy.

**HOTEL, INN, OR MOTEL** — ~~A building or group of buildings containing living and or sleeping facilities designed primarily for travelers.~~ A building or group of buildings in which lodging is provided and offered to the public for compensation; which is open to transient guests; and is not a bed and breakfast as herein defined.

**INSTITUTIONAL USE** — Public and public/private group use of a nonprofit nature, typically engaged in public service (e.g., houses of worship, nonprofit cultural centers, and charitable organizations).

**LOT** —

- (1) **LOT** — A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
- (2) **CORNER LOT** — A parcel of land at the junction of and fronting on two more intersecting streets.
- (3) **THROUGH LOT** — An interior lot having frontage on two parallel or approximately parallel streets.
- (4) **DEPTH OF LOT** — The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the sidelines of the lot.
- (5) **LOT WIDTH** — The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

**LOT LINE** — Any boundary line of a lot.

**MANUFACTURED HOME** — Shall have the same meaning as set forth in Chapter 91, Manufactured Homes, of the Code of the Village of Fair Haven.

**MASONRY** — A building material which includes all stone products, natural or manufactured, such as brick or concrete block, including decorative and customized blocks, usually with the use of mortar as a bonding agent.

**MEDICAL OFFICE** — A building used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises. This term shall also include a clinic for outpatients including an urgent care facility.

**MOBILE HOME** — Shall have the same meaning as set forth in Chapter 91, Manufactured Homes, of the Code of the Village of Fair Haven.

**OFFICE AND PROFESSIONAL BUSINESS** — The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, or any similar type of profession.

**OPEN SPACE** — Any space or area characterized by great natural scenic beauty or whose existing open space, natural condition or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources.

**PARAPET WALL** — A low, protective wall at the edge of a roof, especially the part of an exterior wall, fire wall, or party wall, which extends above the roof line.

**PRIMARY FAÇADE** — The side of a building oriented toward a primary street or oriented toward the primary frontage of a secondary street. The main entrance to any building shall be located on the primary façade. Buildings which have side and rear facades facing a primary street shall treat all such facades as primary facades.



**PRIMARY FRONTAGE** — The street frontage of a parcel to which the direction of the primary façade and the main building entrance are oriented.

**PRIVATE CLUB** — Shall include a private club or lodge for members only and operated not-for-profit.

**PROJECTING SIGN** — A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Projecting signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.

**RECREATION SPACE** — The sum of all open or covered areas used for recreation purposes.

**REFUSE STORAGE AREA** — An area on a property where refuse (trash, garbage, recycling, etc.) is collected and stored until it is either put on the curb, picked up, or disposed of by a contracted company or taken off site and disposed of by the property owner. Such areas shall be enclosed or screened, kept clean and free of rodents.

**REFUSE STORAGE UNIT** — A container (trash can, dumpster, recycling bin, etc.) used to collect refuse before it is properly disposed of or picked up by a contracted company.

**RETAIL BUSINESS** — Shall include, but not be limited to the following: shops and stores for the sale of books, beverages, confections, drugs, dry goods, flowers, foodstuffs, gifts, hardware, household appliances, jewelry, notions, periodicals, stationery, tobacco, paint, furniture, and wearing apparel.

**RESTAURANT** — A place for the sale and consumption of food and beverages.

**RIGHT-OF-WAY** — ~~Land set aside for use as a street, alley or other means of access.~~ A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities.

**RIGHT-OF-WAY LINE** — The lines that form the boundaries of a right-of-way.

**ROOF LINE** — The edge of the roof around the building where the wall intersects with the eaves of the roof. In the cases where there is a parapet wall on the building the roof line shall be considered the line where the roof and the bottom of the parapet wall meet.

**ROOMER, BOARDER OR LODGER** — A person occupying any room or group of rooms forming a single habitable unit, used or intended to be used for living and sleeping, but not for cooking for eating purposes, and paying compensation for lodging or board by prearrangement for a week or more at a time, to an owner or operator. Any person occupying such room or rooms, and paying such compensation without prearrangement or for less than a week at a time, shall be classified, for purposes of this chapter, not as a "roomer," "boarder" or "lodger" but as a "guest of a commercial lodging establishment" (motel, hotel, tourist home or bed-and-breakfast).

**SECONDARY FAÇADE** — All sides of a building not considered a primary façade shall be considered a secondary façade.

**SECONDARY FRONTAGE** — All street frontages which are not deemed a primary frontage shall be considered a secondary frontage.

**SERVICE BUSINESS** — Shall include but not be limited to the following: barbershop; beauty shop; laundry or cleaning agency or self-service laundry; tailor or printing shop; photo studio; caterer; repair shop for appliances, bicycles, watches or shoes; and carpentry or plumbing shop.

**SEWER** — Any municipally or privately owned sewer system in which sewage is collected from a building piped to and approved sewage disposal plant or central septic tank disposal system. It may also be referred to as an "off-site sewer."

**SIGN** — See Article VI.

**STOREFRONT** — Building façade for the ground floor (at street level), facing the street, which is usually associated with commercial uses; and incorporates some display windows which are visible from a street, sidewalk, or other pedestrian way accessible to the public, or adjacent public or private property.

**STORY** — That portion of a building enclosed between the surface of any floor and the surface of the floor immediately above it or, if there is no floor above it, then the space between any floor and ceiling next above it (see "basement," "cellar").

**STREET** — A public or private way, used or intended to be used for passage or travel by automobiles, which affords access to abutting properties.

**STREET LINE** — The dividing line between the street and the lot. The "street line" shall be the same as the legal right-of-way, provided that where a future right-of-way width for a road or street has been established, then that width shall determine the location of the "street line."

**STRUCTURE** — A combination of materials assembled, constructed or erected at a fixed location, including, for example, a building, stationary and portable carports and swimming pools, the use of which requires location on the ground or attachment to something having location on the ground.

**TAVERN OR BAR** — A building or portion thereof whereby the principal use is for the consumption of alcoholic and nonalcoholic beverages.

**TOURIST HOME OR BED-AND-BREAKFAST** — A residential dwelling occupied by an owner, providing shelter or food and shelter to travelers or short-term guests.

**TRAVEL TRAILER AND/OR RECREATIONAL VEHICLE** — A vehicular portable structure built on a chassis designed as a temporary dwelling for travel, recreation, vacation and other short-term uses, having a body width not exceeding eight feet and body length not exceeding 35 feet.

**TRIM COLOR** — A color in a building's color palette which is used for finished woodwork and other trim elements typically used to decorate, border, or protect the edges of openings or surfaces. This color should not be as bold or vivid as an accent color and may be used more frequently.

**USE** — Any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

**USE, PRINCIPAL** — The main use of a lot.

**VEHICULAR SIGHT TRIANGLE** — An appropriately sized area of land at the intersection of streets, or a street and a driveway, within which nothing may be erected, planted, placed, or allowed to grow in a manner which will obstruct the vision of motorists entering or leaving the intersection.

**WROUGHT IRON-STYLE** — A decorative contemporary metal feature (i.e. a bench, fence, etc.) which has been designed and painted/colored to mimic traditional wrought iron metal works.

**YARD —**

- (1) **YARD** — An open space unobstructed from the ground up on the same lot with a principal structure, extending along a lot line or street line and inward to the structure. The size of a required yard shall be measured as the shortest distance between the structure and a lot line or street line.
- (2) **YARD, FRONT** — A yard between a principal structure and a street line and extending the entire length of the street line. In the case of a corner lot, the yards extending along all streets are "front yards." In the case of a lot other than a corner lot that fronts on more than one street, the yards extending along all streets are "front yards."
- (3) **YARD, REAR** — A yard between a principal structure and a rear lot line extending the entire length of the rear lot line.
- (4) **YARD, SIDE** — A yard between a principal structure and a side lot line extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a "side yard."

**YEAR ROUND OPAQUE VEGETATION** — Evergreen vegetation which will provide an opaque (non-see through) screen for twelve months out of the year. Often used as an alternative to or in combination with a fence to achieve the required screening of refuse storage areas or parking lots.

**ZONING OFFICER** — An individual employed by the Village and authorized to enforce the provisions of this Zoning Law.

**ARTICLE II**  
**Districts; Zoning Map**

**§ 150-4. Districts established.**

For the purpose of promoting the public health, safety, morals and general welfare of the Village of Fair Haven, the Village is hereby divided into the following types of districts:

R	Residential District
AR	Agricultural/Residential District
BF	Bay Front District
CBD	Central Business District
SDD	Special Development District
PR	Public Recreation District

**§ 150-5. Zoning Map.**

Said districts are bounded as shown on a map entitled the "Zoning Map of the Village of Fair Haven," adopted and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.

**§ 150-6. Interpretation of district boundaries.**

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

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street line or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of street or center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such a distance as shall be determined by the use of the scale shown on the Zoning Map.
- D. In the case of further uncertainty as to the true location of zoning district boundary line in a particular instance, the ~~Board of Appeals~~ **Planning Board** shall determine the location of such boundary.

**ARTICLE III**  
**Use Regulations**

**§ 150-7. Applicability.**

Except as provided by law or in this chapter in each district, no building, structure or land shall be used or occupied except for the purposes permitted and for the zoning districts so indicated.

**§ 150-8. Uses permitted.**

**A. Residential District.**

- (1) The following uses are permitted within the R Zone:
  - (a) Agricultural tilling of the soil.
  - (b) One-family detached dwelling on a separate lot and occupied by not more than one family.
- (2) The following uses are allowed by special permit:
  - (a) Two-family detached dwelling on a separate lot, the total lot area not being less than the minimum lot required for a one-family detached dwelling for the district.
  - (b) Conversion of one-family dwelling to two-family dwelling. Upon completions of the conversion, the converted dwelling shall meet all requirements of this chapter applicable to two-families.
  - (c) Multiple-family dwelling subject to the following:
    - [1] There shall be 15,000 square feet of lot area for the initial three dwelling units with 100 feet of road frontage. The minimum lot area shall be increased by at least 2,000 square feet for each additional dwelling unit over three.
    - [2] A minimum of 1.8 square feet of landscaped open space shall be required for each square foot of floor area devoted to multiple-family use. A minimum of 0.13 square feet of recreation space shall be required for each square foot of floor area devoted to multiple-family use.
  - (d) Manufactured home park, subject to the provisions of Chapter 91, Manufactured Homes, of the Code of the Village of Fair Haven.
  - (e) Institutional and educational uses, subject to the following restriction: completely detached buildings on the same lot shall be not less than 20 feet from one another.
  - (f) Religious, sectarian and nonsectarian, denominational, private or public school, not conducted as a private gainful business, subject to the following provisions:
    - [1] The minimum lot size shall be three acres.
    - [2] All buildings shall be not less than 100 feet from any lot line
    - [3] Completely detached buildings on the same lot shall be not less than 20 feet from one another.
  - (g) Publicly owned or operated facilities.
  - (h) Library.
  - (i) Private club.

- (j) Accessory uses, subject to the following:
- [1] Customary home occupation for gain:
    - [a] That is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit.
    - [b] That is clearly incidental and secondary to the use of the dwelling for residential purposes.
    - [c] That conforms to the following regulations:
      - [i] The home occupation shall be carried on wholly indoors and within the principal building or within a building or other structure accessory thereto.
      - [ii] There shall be no use of show windows or displays or advertising visible outside the premises to attract customers or clients other than the home occupation announcement signs as permitted.
      - [iii] There shall be no exterior storage of materials.
      - [iv] No external alterations, additions or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.
      - [v] No articles shall be sold or offered for sale except such as may be produced on the premises.
      - [vi] No repetitive servicing by truck for supplies and material shall be required.
      - [vii] The floor area devoted to home occupation shall not be more than 25% of the ground area of the principal residential structure or 500 square feet.
    - [d] In particular, a home occupation includes but is not limited to the following: art studio, professional office of a physician, dentist, lawyer, engineer, architect, writer or accountant ~~.; tourist home; and bed and breakfast.~~
    - [e] Among the uses that shall not be interpreted to be home occupations are the following: animal hospital, commercial stables and kennels, funeral parlor, antique shop and restaurant.
  - [2] All accessory uses shall be subject to the off-street parking requirements of this chapter
  - [3] All accessory uses shall be subject to the sign requirements of this chapter.
- (k) Accessory buildings, subject to the following:
- [1] Minimum yard regulations.
    - [a] Unattached accessory buildings in residential districts and accessory buildings which are not attached to a principal building shall be erected only in accordance with the following restrictions:
      - [i] No accessory buildings shall be located closer than 10 feet to the side and rear lot lines

- [ii] No accessory building shall be located closer to the street than the street wall of the principal building, bay front property excepted.
- [iii] No accessory building shall be located closer to a principal building than 10 feet.
- [b] Attached accessory buildings in residential districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.

#### B. Agricultural/Residential District.

- (1) The following uses are permitted within the AR Zone:
  - (a) Agricultural tilling of the soil.
  - (b) One-family detached dwelling on a separate lot and occupied by not more than one family.
  - (c) Two-family detached dwelling on a separate lot, the total lot area not being less than the minimum lot required for a one-family detached dwelling for the district, including conversions from a single-family dwelling to two-family dwelling. Upon completions of the conversion, the converted dwelling shall meet all requirements of this chapter applicable to two-family dwellings.
  - (d) Establishment of Special Development District.
  - (e) Mobile homes, factory-built homes, or manufactured homes, subject to the provisions of Chapter 91, Manufactured Homes, of the Code of the Village of Fair Haven.
- (2) The following uses are allowed by special permit:
  - (a) All uses permitted in the R Zone by special permit are so allowed in the AR Zone, unless otherwise permitted under paragraph B(1).

#### C. Bay Front District.

- (1) The following uses are permitted in the BF Zone:
  - (a) All uses permitted in the R Zone.
- (2) Bay front recreational businesses.
  - (a) The bay front recreational business enumerated herein shall be permitted by special permit (see § 150-40):
    - [1] Marine uses:
      - [a] Marinas.
      - [b] Boat and marine engine repair.
      - [c] Gas docks.
      - [d] Fishing and boating supplies.
    - [2] Private club and joint access area, a "joint access area" being a single parcel of land cooperatively owned for the purpose of obtaining access to the bay for recreation.

- [3] Seasonal lodging:
  - [a] Rental cottages.
  - [b] Motels and hotels.
- (b) Bay front recreational businesses shall be established only upon lots no smaller than three acres and having no less than 200 feet of frontage upon the bay.
- (c) Such businesses shall demonstrate that the design and materials of the structure and landscaping would be consistent with the natural and man-made surroundings.
- (d) Such businesses shall comply with the buffer strip requirements in Subsection D(2).
- (e) Additionally, it is desirable to demonstrate that the proposed activity will be compatible with and not made impractical by the natural environment in which it will be located. The applicant shall so demonstrate by providing documentation, where applicable, regarding the relationship between the proposed activity and the following environmental factors:
  - [1] Physical character of the site:
    - [a] Slope.
    - [b] Depth to water table.
    - [c] Unique or unusual land forms.
    - [d] Depth to bedrock.
    - [e] Soil types.
    - [f] Flooding potential.
    - [g] Wetlands.
    - [h] Surface water.
    - [i] Drainage.
    - [j] Adjacent land uses.
    - [k] Other factors set forth by the reviewing agency.
  - [2] Natural resources:
    - [a] Plant and wildlife.
    - [b] Historic resources.
    - [c] Visual settings.
    - [d] Air quality.
    - [e] Water quality.
    - [f] Open space.
    - [g] Mineral resources.
    - [h] Other factors set forth by the reviewing agency.



- [3] Socioeconomic:
  - [a] Transportation patterns.
  - [b] Unique energy requirements
  - [c] Noise.
  - [d] Drinking water.
  - [e] Sanitary disposal.
  - [f] Community growth patterns, including impacts on schools and municipal facilities.
  - [g] Other factors set forth by the reviewing agency.

**D. Central Business District.**

- (1) The following uses are permitted:
  - (a) All uses permitted in the R Zone.
  - (b) The following commercial and mercantile uses:
    - [1] Restaurant, tavern or bar.
    - [2] Service business, including but not limited to the following: barbershop; beauty shop; laundry or cleaning agency or self-service laundry; tailor, dressmaker or printing shop; photo studio; caterer; repair shop for appliances, bicycles, watches or shoes; and carpentry or plumbing shop.
    - [3] Private club or lodge for members only and operated not for profit; no buildings shall be closer than 20 feet to any lot line.
    - [4] Retail business, including but not limited to the following: shops and stores for the sale of books, beverages, confections, drugs, dry goods, flowers, foodstuffs, gifts, hardware, household appliances, jewelry, notions, periodicals, stationery, tobacco, paint, furniture and wearing apparel.
    - [5] Office and professional business, including but not limited to the following: personal health services, such as physician, dentist, optometrist, clinic for outpatients; architect; attorney; realtor; insurance; writer; and accountant.
    - [6] Automotive business, including the repair of vehicles and sale of gasoline and other products for automobiles, but not including junkyards or parts-reclamation businesses.
      - [a] All activities, except those required to be performed at fuel pumps, shall be carried on within a completely enclosed building.
      - [b] Fuel pumps may be located within the front yard area of the lot, but shall be at least 15 feet from any right-of-way.
    - [7] Contracting business, including but no limited to the following: electrical, heating, masonry and general construction.
    - [8] Hotel, inn, motel or convention center.
- (2) All uses in Subsection D(1)(b) above shall provide buffers consistent with the following:

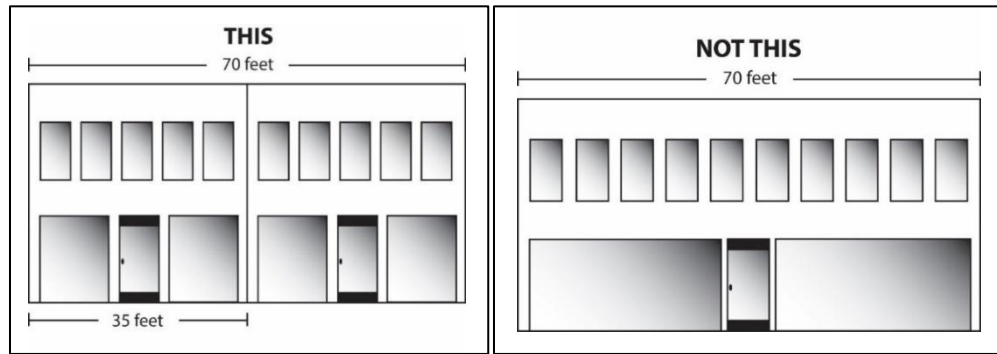
- (a) A buffer strip no less than 10 feet in width shall be provided by the owner along side and rear property lines when abutting property is not a commercial or industrial use. This buffer strip shall be sufficient to prevent access to adjacent property or to form an immediate screen. It shall be composed of evergreens, evergreen shrubs and/or deciduous shrubs or uniformly finished fences. The maintenance of this area shall be a continuing obligation of the owner of said area.
- (b) A conditional waiver or modification of this buffer strip requirements can be obtained by special permit solely with the consent of adjacent property owners.

#### E. Central Business District Regulations

- (1) Purpose. The purpose of the Central Business District (CBD) regulations is to provide appropriately scaled commercial uses while maintaining and enhancing the historic character and development pattern in downtown Fair Haven. Commercial uses in this district should provide goods and services for residents and support the local tourism economy. New development in this district will be regulated in accordance with the design standards herein which have been established to ensure that all new buildings, substantial remodels, and new uses are compatible with the surrounding character of the district, balances growth, and protects the quality of life for both residents and visitors.
- (2) Building Siting for New Development. Non-Residential Development. For all new construction projects the following requirements shall be met.
  - (a) Placement.
    - [1] Each parcel shall be assigned a primary frontage, to be approved by the Planning Board. Parcels on a corner shall also have a secondary frontage.
    - [2] A build-to-line shall be established for each primary frontage and secondary frontage by the Planning Board. In general, the build-to-line shall align with the front façade of adjacent buildings on adjacent parcels. The Planning Board has established the build-to-line for each block in the CBD based on the location of existing buildings at the time of adoption of this Section of the Zoning Law.
    - [3] For large lot development where there is a desire and ability to place the building back a significant distance from the build-to-line, the Planning Board may approve an alternate building placement.
    - [4] On corner lots, the building shall be located near the corner, at the intersection of the build-to-line of the primary frontage, and the build-to-line of the secondary frontage, unless specific site circumstances such as utility easements, topography, or street design standards preclude such a location. If such circumstances exist, the building shall be located as close as practical to the corner along the primary frontage while still maintaining a clear sight triangle for vehicular traffic.
  - (b) Massing.
    - [1] Height. Buildings shall have a maximum height of 35 feet.
    - [2] Square footage. Buildings with a ground floor area (footprint) of 4,000 square feet or more are required to obtain a special use permit from the Planning Board. In granting a special use permit for a building with a ground floor area

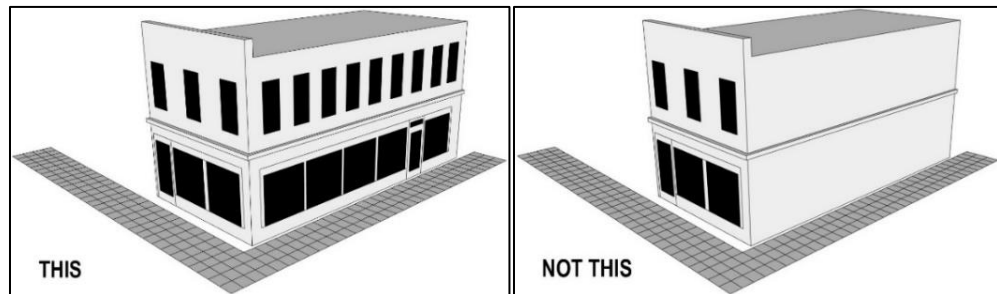
(footprint) over 4,000 square feet, the Planning Board may impose whatever conditions regarding layout, circulation and performance it deems necessary to ensure that any proposed developments will secure substantially the objectives of this Section. These conditions may include but are not limited to the following:

- [a] Increasing the required lot size or yard dimension.
  - [b] Limiting the height, size, or location of buildings.
  - [c] Controlling the location and number of vehicle access points.
  - [d] Increasing the number of required off-street parking spaces.
  - [e] Limiting the number, size, location, and lighting of signs.
  - [f] Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - [g] Designating sites for open spaces.
- [3] Buildings with primary frontage of 70 feet or longer shall be constructed in a series of bays to appear as more than one building. Each of these bays shall be no wider than 35 feet and each bay shall have a functional entrance.



(c) Orientation.

- [1] Buildings shall be oriented so that their main entrances are accessible from the primary frontage (not on the side or to the rear), thus maintaining the pedestrian experience and access in the Central Business District.
- [2] Buildings on corners shall have storefront windows on both sides facing each street and shall have at least one entrance on the primary frontage. Buildings with entrances from each street are encouraged.



- [3] For large lot development where there is a desire and ability to place the building back a significant distance from the build-to-line, the Planning Board may approve an alternate building orientation.
- (d) **Public Space.** Property owners are encouraged to provide public pedestrian spaces along their commercial storefronts. These types of spaces include but are not limited to outdoor seating or café space; additional landscaping; benches; and bike racks, etc.
- (e) **Parking.** Off-street parking spaces/lots provided by property owners, whether private or public, shall meet the following requirements:
  - [1] Parking spaces/lots shall be located to the rear or the side of the building and shall be screened from view along the public right-of-way on the primary street frontage in accordance with the requirements in §150-8, E, (2), (g), [1].
  - [2] Areas which are available for public parking and not designated solely for residential units shall be properly signed and marked.
  - [3] Curb cuts into parking lots shall be no wider than 24 feet and each parcel shall have only one curb cut per street.
- (f) **Accessory Buildings and Uses.** Accessory buildings and uses, including but not limited to, dumpsters or other refuse storage units, storage sheds, mechanical equipment, commercial vehicle storage/parking, and loading docks or access areas shall be located at the rear of the property or building and screened from view from the public right-of-way on the primary street frontage in accordance with the screening requirements in §150-8, E, (2), (g), [1].
- (g) **Landscaping and Screening.** Property owners are encouraged to provide landscaping on their property in the form of grass areas, planter boxes, shrubs, trees, etc. in addition to the landscaping provided by the Village in the public right-of-way on the primary street frontage (street trees). Property owners shall maintain and not remove any landscaping installed by the Village or required by this Section without prior written consent from the Village Board.
  - [1] **Parking Lots and Accessory Structures.** Property owners shall provide screening for parking lots and accessory structures as follows:
    - [a] Parking lots shall be screened from view along the public right-of-way on the primary street frontage. Screening shall be a minimum of three feet in height using evergreen landscape material at the time of planting and spaced three feet on center. Street trees, if provided in addition to the evergreens, shall be a minimum two inch caliper (diameter) at breast height at the time of planting and spaced 40 feet on center.
    - [b] All buildings shall screen dumpsters and refuse storage areas from view from the public right-of-way on the primary street frontage with an enclosure which complements the main building in both material and color (unpainted concrete block is prohibited), built to a height of at least one foot above the height of the dumpster or refuse storage unit. Property owners may choose to construct a combination of year-round opaque vegetation and a wrought iron-style fence built to a height of at least one foot above the height of the dumpster or refuse storage unit as an alternative to a masonry wall enclosure.

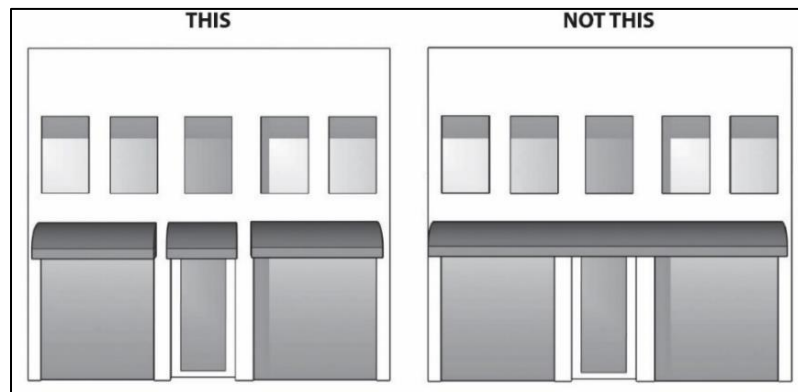
- [c] Existing buildings shall screen their dumpsters in compliance with the above regulations for new buildings, within two years of the adoption of the Zoning Amendments, Local Law #2 of 2019, on April 22, 2019.
      - [d] Modifications or variances from any of the above requirements may be approved by the Planning Board on a case by case basis in areas where these requirements cannot be met.
    - [2] Commercial Development Adjacent to Residential Uses. A buffer strip no less than 10 feet in width shall be provided by the owner of a commercial building along the side and rear property lines when abutting an existing residential use. This buffer strip shall be sufficient to prevent access to the adjacent property and to form an immediate screen. It shall be composed of evergreens, evergreen shrubs, and/or deciduous shrubs; and may also include a uniformly finished fence. The maintenance of this area shall be a continuing obligation of the owner of said area.
  - (3) Building Siting for New Development. Residential Development- Single-Family Dwellings. For all new construction projects the following requirements shall be met.
    - (a) Placement.
      - [1] Each parcel shall be assigned a primary frontage, to be approved by the Planning Board.
      - [2] A build-to-line shall be established for each primary frontage and secondary frontage by the Planning Board. In general, the build-to-line shall align with the front façade of adjacent buildings on adjacent parcels. The Planning Board has established the build-to-line for each block in the CBD based on the location of existing buildings at the time of adoption of this Section of the Zoning Law.
      - [3] For large lot development where there is a desire and ability to place the dwelling back a significant distance from the build-to-line, the Planning Board may approve an alternate building placement.
    - (b) Orientation.
      - [1] Single-Family Dwellings shall be oriented so that the front of the dwelling faces the primary frontage, thus maintaining the pedestrian experience in the Central Business District.
      - [2] For large lot development where there is a desire and ability to place the dwelling back a significant distance from the build-to-line, the Planning Board may approve an alternate building orientation.
    - (c) Landscaping and Screening. Property owners are encouraged to provide landscaping on their property in the form of grass areas, planter boxes, shrubs, trees, etc. in addition to the landscaping provided by the Village in the public right-of-way on the primary street frontage (street trees). Property owners shall maintain and not remove any landscaping installed by the Village without prior written consent from the Village Board.
  - (4) Design Standards. The purpose of the following design standards for the Central Business District is to regulate new development in a manner which maintains and enhances the

Village's small, historic, pedestrian-oriented downtown identity and character in harmony with the vision and goals of the Village of Fair Haven Comprehensive Plan. For the purpose of determining the architectural style that new development shall emulate, the significant historical period for the Central Business District is 1860 to 1950.

(a) Non-Residential Development.

- [1] Applicability. The standards below shall apply to all newly constructed buildings. The standards shall also apply to existing buildings where the improvements that are being made fall into one or more of the following categories: (1) Replacement of exterior building materials, doors, windows, etc. totaling 50% or more of the surface area of one or more building facades; or (2) The building envelope is expanded by 50% or more of the total square footage of the existing building.
- [2] Ground Floor Facades. In order to maintain a pedestrian oriented commercial street-frontage, the first floor of all non-residential buildings in the Central Business District shall look and function like a commercial storefront (retail and office uses are both acceptable). Specific requirements for ground floor facades include:
  - [a] Window Style/Treatment
    - [i] Windows and doors shall occupy at least 50% of the building ground floor façade and be of a size and scale appropriate to the overall building.
    - [ii] Window sashes and mullions shall not be clad in reflective unpainted metal, but rather painted the same trim color as the rest of the trim on the building.
    - [iii] Windows shall have a solid base (bulkhead) under them (between the sidewalk and the window base) a minimum of eighteen inches (18") high but no more than thirty inches (30") high.
  - [b] Commercial Entrances
    - [i] Entry doors shall be recessed from the building façade where historically accurate to the building.
    - [ii] Entry doors shall be a minimum of 50% glass and may include a transom over the door.
    - [iii] Entry doors shall be constructed of clad wood, steel (must have a painted non reflective finish), fiberglass or painted wood; and shall have a minimum twelve inch (12") bottom style or base.
    - [iv] Entrances may have an awning or canopy over them, subject to the specific requirements in §150-8, E, (4), (a), [6].
- [3] Building Materials. For new buildings the following materials are prohibited on building facades: metal siding, smooth face concrete block, and split-face concrete block. For renovations or additions to existing buildings, the property owner may use similar matching materials to those currently used on the existing building façade upon approval by the Planning Board.

- [4] **Building Corners.** Where feasible, building corners should incorporate prominent features to create a focal point for pedestrians such as a diagonally cut entrance on the corner of the building with a view into the commercial space. In order to provide safe pedestrian and vehicular movement there shall be no projections from the building (including signage), free standing signs, furniture, or other items which encroach into the vehicular sight triangle at the corner intersection.
- [5] **Roofs.** Roofs may be sloping or flat and similar roof styles and heights shall be used to create a visually cohesive and interesting streetscape. Flat roofs must incorporate a parapet wall along the primary façade and on all primary streets. Roof types and heights shall be appropriate to the historical architectural character of the building.
  - [a] Corrugated metal and wood shake roofs are prohibited. Standing seam metal roofs shall be permitted so long as they do not have a reflective metallic finish.
- [6] **Awnings and Canopies.** Property owners are encouraged to include awnings or canopies over individual doors and storefronts on the ground floor facades of buildings in the Central Business District. Awnings and canopies shall not extend over the entire length of a building façade and shall only occur over individual entrances and windows on the ground floor façade. Awnings and canopies shall be constructed to replicate traditional, historic storefront awnings which are appropriate to the architectural period and style of the building; and shall be made of weather/fade resistant and fire retardant fabric stretched over a metal frame. Metal, plastic, glass and any other shiny or reflective materials are prohibited. Awnings and canopies must be colored in a complementary color scheme as the building. Any signage, writing, or symbols used on an awning or canopy shall not cover the entire surface of the fabric and shall also complement the overall color scheme for the building.



- (5) **General Maintenance.** None of the guidelines or standards in this document shall prohibit the general maintenance and cleaning of buildings, including cleaning masonry or painting building façade elements. All activities not deemed to be general maintenance activities shall be subject to the requirements in this Section.
- (6) **Color.** Buildings in the Central Business District shall have a color scheme of at least two colors. Building color schemes shall consist of a main body color, plus one or more trim colors, plus one (optional) accent color.



- (7) Signage. Projecting signs and signage on the windows of storefronts is encouraged, but shall not be distracting, hazardous (to pedestrians or project so far out from the building to interfere with traffic, trees, or utility lines), or cover up a single storefront window or door. In addition to the signage regulations in §150-18, specific requirements for the Central Business District are listed below:
  - (a) "Open" flags are encouraged on storefronts however, other non-flag type moving, spinning or air blown moving signage is prohibited.
  - (b) Free standing signage in the public right-of-way on the primary street frontage and in the vehicular sight triangle at corners, unless it is NYS DOT approved directional or safety signage, is prohibited. However, sandwich board signs are permitted so long as they do not block pedestrian access on the sidewalk.

#### F. Special Development Districts.

- (1) Requirements.
  - (a) Upon compliance with all provisions of this subsection, this district shall be established by amendment of this chapter by the Village Board.
  - (b) This district shall be established only within those areas designated as an "AR Zone" at the time of application for said establishment.
  - (c) The nature of activities likely to be carried on under authority of this section requires the application of safeguards in order to ensure the safety and best use of property in nonresidential use.
  - (d) Therefore, the following performance requirements shall be met by an applicant for a permit under authority of this subsection. Such requirements are designed to prevent a condition which is noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substance or condition.
  - (e) The applicant shall demonstrate that the following standards are met:
    - [1] All applicable building and fire codes have been or can be complied with prior to issuance of occupancy permit.
    - [2] Glare from direct or indirect lighting shall not cause illumination in excess of 0.5 footcandle from the source when measured at a residential line adjoining the site.
    - [3] Toxic substances, materials which are capable of carrying injury to living organisms by chemical means when present in relatively small amounts, shall not be used, stored, processed, transported or in other ways incorporated into the industrial operations of the applicant in any manner which threatens the safety of the residents, property or resources of the Village of Fair Haven.
    - [4] Smoke emitted from any stack, vent chimney or combustion process shall not be of a shade in excess of Ringelmann No. 1, except for a total of three minutes in an eight-hour period, where such shall not exceed Ringelmann No. 3. The Ringelmann Chart is published by the United States Bureau of Mines.
    - [5] Odor shall be measured by the Standard Method for Measurement of Odor in Atmosphere (ASRM DI391-57) or its equivalent. Odor releases shall not exceed the odor threshold concentration at or beyond the district boundary line measured either at ground level or habitable elevation.



- [6] Dust and particulates shall not exceed levels set forth by the American Conference of Government Industrial Hygienists.
- [7] All business servicing, manufacturing and processing and storage within 50 feet of a residential boundary shall be effectively screened by a solid wall, fence or planting or combination of such so that material or activity shall not be visible from the residential property.
- [8] A minimum lot size of three acres shall be required for the establishment of any use under this subsection.
- [9] No more than 75% of the lot shall be built upon or developed for accessory uses.
- [10] Additionally, it is desirable to demonstrate that the proposed activity will be compatible with and not made impractical by the natural environment in which it will be located. The applicant shall so demonstrate by providing documentation, where applicable, regarding the relationship between the proposed activity and the following environmental factors:
  - [a] Physical character of the site:
    - [i] Slope.
    - [ii] Depth to water table.
    - [iii] Unique or unusual land forms.
    - [iv] Depth to bedrock.
    - [v] Soil types.
    - [vi] Flooding potential.
    - [vii] Wetlands.
    - [viii] Drainage.
    - [ix] Adjacent land uses.
    - [x] Other factors set forth by the reviewing agency.
  - [b] Natural resources:
    - [i] Plants and wildlife.
    - [ii] Historic resources.
    - [iii] Visual settings.
    - [iv] Air quality.
    - [v] Water quality.
    - [vi] Open space.
    - [vii] Mineral resources.
    - [viii] Other factors set forth by the reviewing agency.
  - [c] Socioeconomic:
    - [i] Transportation patterns.

- [ii] Unique energy requirements.
  - [iii] Noise.
  - [iv] Drinking water.
  - [v] Sanitary disposal.
  - [vi] Community growth patterns, including impacts on schools and municipal facilities.
  - [vii] Other factors set forth by the reviewing agency.
- (2) Permitted uses.
- (a) Upon compliance with all provisions of this subsection and § 150-40, Article VIII, the uses permitted within said created districts shall be limited to those set forth by the Village Board as an amendment to this chapter.

#### G. Public Recreation District.

- (1) The following uses are permitted in the PR Zone:
- (a) Recreational activities and programs undertaken by a public agency or its designated agent upon lands owned or otherwise controlled by a public agency or its designated agent.
  - (b) The construction, erection and/or maintenance of buildings, structures and/or other appurtenances required or desirable for the provision of recreational services to the public agency or is designated agent.

#### H. The following describes the categories of uses as outlined in Table 1: Use Table.

- (1) Uses permitted-by-right. (Denoted by “P”)
- (2) Uses permitted upon issuance of a Special Use Permit subject to review and approval by the Planning Board and subject to the requirements of §150-40, A. (Denoted by “SP”).
- (3) A use that is not permitted in a particular zoning district is denoted by "N".
- (4) Additional requirements for specific uses can be found in the sections referenced in the table for those uses.
- (5) Uses that require Site Plan Approval from the Planning Board are noted in the far right column of the table subject to the requirements of §150-40, B.

<b>Table 1: Use Table</b>							
Use Category	Zoning District					Section Reference	Site Plan Review Required
	R	AR	BF	CBD	PR		
<b>AGRICULTURAL USES</b>							
Agricultural tilling of the soil	P	P	P	P	N	§ 150-8, A § 150-8, B	No
<b>RECREATIONAL USES</b>							
Recreational activities and programs undertaken by a public agency or its designated agent upon lands owned or otherwise controlled by a public agency or its designated agent	N	N	N	N	P	§ 150-8, G	No
The construction, erection and/or maintenance of buildings, structures and/or other appurtenances required or desirable for the provision of recreational services to the public agency or is designated agent	N	N	N	N	P	§ 150-8, G	No
<b>RESIDENTIAL USES</b>							
Conversion of one-family dwelling to two-family dwelling	SP	P	SP	SP	N	§ 150-8, A § 150-40, A	No
Manufactured home park	SP	SP	SP	<del>SP</del> N	N	§ 150-40, A & Chapter 91 of the Code of Fair Haven	Yes
Mobile homes, factory-built homes, or manufactured homes	N	P	N	N	N	§ 150-40, A & Chapter 91 of the Code of Fair Haven	No
Multiple-family dwelling	SP	SP	SP	SP	N	§ 150-8, A § 150-40, A	Yes
One-family detached dwelling	P	P	P	P	N	§ 150-8, A	No
Two-family detached dwelling	SP	P	SP	SP	N	§ 150-8, A § 150-40, A	No

Table 1: Use Table							
Use Category	Zoning District					Section Reference	Site Plan Review Required
	R	AR	BF	CBD	PR		
<b>COMMERCIAL USES</b>							
Automotive business, including the repair of vehicles and sale of gasoline and other products for automobiles, but not including junkyards or parts-reclamation businesses	N	N	N	<del>P</del> SP	N	§ 150-8, D § 150-40, A	Yes
Contracting business, including but not limited to the following: electrical, heating, masonry and general construction	N	N	N	P	N	§ 150-8, D	Yes
Establishment of Special Development District	N	P	N	N	N	§ 150-8, F § 150-40, C	Yes
Hotel, inn, motel or convention center	N	N	SP	<del>P</del> SP	N	§ 150-8, D § 150-40, A	Yes
Institutional and educational uses	SP	SP	SP	<del>SP</del> P	N	§ 150-8, A § 150-40, A	Yes
Library	SP	SP	SP	<del>SP</del> P	N	§ 150-8, A § 150-40, A	Yes
Marine uses including: marinas, boat and marine engine repair, gas docks, and fishing and boating supplies	N	N	SP	<del>N</del> SP	N	§ 150-8, C § 150-40, A	Yes
Office and professional business, including but not limited to the following: personal health services, such as physician, dentist, optometrist, clinic for outpatients; architect; attorney; realtor; insurance; writer; and accountant	N	N	N	P	N	§ 150-8, D	Yes
Private club	SP	SP	SP	P	N	§ 150-8, A § 150-40, A	Yes
Private club and joint access area, a "joint access area" being a single parcel of land cooperatively owned for the purpose of obtaining access to the bay for recreation	N	N	SP	N	N	§ 150-8, C § 150-40, A	Yes
Publicly owned or operated facilities	SP	SP	SP	SP	N	§ 150-8, A § 150-40, A	No

Table 1: Use Table							
Use Category	Zoning District					Section Reference	Site Plan Review Required
	R	AR	BF	CBD	PR		
Religious, sectarian and nonsectarian, denominational, private or public school, not conducted as a private gainful business	SP	SP	SP	SP P	N	§ 150-8, A § 150-40, A	Yes
Restaurant, tavern or bar	N	N	N	P SP	N	§ 150-8, D	Yes
Retail business, including but not limited to the following: shops and stores for the sale of books, beverages, confections, drugs, dry goods, flowers, foodstuffs, gifts, hardware, household appliances, jewelry, notions, periodicals, stationery, tobacco, paint, furniture and wearing apparel	N	N	N	P	N	§ 150-8, D	Yes
RV park or seasonal campground	SP	SP	SP	SP N	SP	§ 150-40, A & Chapter 91 of the Code of Fair Haven	Yes
Seasonal lodging including: rental cottages, motels and hotels	N	N	SP	N SP	N	§ 150-8, C § 150-40, A	Yes
Service business, including but not limited to the following: barbershop; beauty shop; laundry or cleaning agency or self-service laundry; tailor, dressmaker or printing shop; photo studio; caterer, repair shop for appliances, bicycles, watches or shoes; and carpentry or plumbing shop	N	N	N	P	N	§ 150-8, D	Yes

<b>Table 1: Use Table</b>							
Use Category	Zoning District					Section Reference	Site Plan Review Required
	R	AR	BF	CBD	PR		
<b>COMMERCIAL USES - ADDITIONAL</b>							
Animal hospital or clinic	N	N	N	SP	N	§ 150-40, A	Yes
Apartment in a commercial building	N	N	N	P	N		No
Athletic club, gym or yoga studio	N	N	N	P	N		Yes
Bed & Breakfast	SP	SP	SP	SP	N	§ 150-40, A	Yes
Car wash	N	N	N	SP	N	§ 150-40, A	Yes
Craft Beverage Industry	N	N	N	SP	N		Yes
Drive-through service as part of a business	N	N	N	SP	N	§ 150-40, A	Yes
Financial institution	N	N	N	P	N		Yes
Residential care facility	N	N	N	SP	N	§ 150-40, A	Yes
Self-storage units	N	N	N	SP	N	§ 150-40, A	Yes
Theater or cinema	N	N	N	SP	N		Yes
<b>ACCESSORY USES</b>							
Accessory buildings	SP	SP	SP	SP	N	§ 150-8, A & § 150-40, A	No
Customary home occupation for gain includes but is not limited to the following: art studio, professional office of a physician, dentist, lawyer, engineer, architect, writer or accountant.; <del>tourist home; and bed and breakfast.</del>	SP	SP	SP	<del>SP</del> P	N	§ 150-8, A & § 150-40, A	No

**ARTICLE IV  
Dimensional Requirements**

**§ 150-9. Table of Dimensional Requirements.**

The regulations for each district pertaining to minimum lot width, maximum building coverage, minimum front yard depth, minimum rear yard depth and maximum height shall be as specified in this section, subject to the further provisions of Article III. [The definitions of terms used in these regulations are as follows:](#)

- A. Lot Width is defined as contiguous linear feet of road frontage.
- B. Front Setback is the distance from the edge of the right-of-way line to the closest point of the building.
- C. Side Setback is the distance from the closest point of the building to the side property line.
- D. Rear Setback is the distance from the closest point of the building to the rear property line.

District	Minimum Requirements					Maximum Requirements
	Lot Size*	Lot Width	Front Setback	Side Setback	Rear Setback	Building Height
Residential (R)	12,000sf	100ft	30ft	10ft	35ft	35ft
Agricultural/Residential (AR)	20,000sf	100ft	30ft	10ft	35ft	35ft
<b>Bay Front (BF)</b>						
Residential	12,000sf	100ft	30ft	10ft	35ft	35ft
Non-Residential	3 acres	200ft**	30ft	10ft	35ft	35ft
<b>Central Business (CBD)</b>						
Residential	12,000sf	100ft	***	10ft	35ft	35ft
Non-Residential	5,000sf	50ft	***	0ft	0ft	35ft
Special Development (SDD)	3 acres	100ft <sup>†</sup>	45ft <sup>†</sup>	10ft <sup>†</sup>	35ft <sup>†</sup>	35ft <sup>†</sup>
Accessory Buildings	NA	NA	Not Permitted	10ft	10ft	20ft

NOTES:  
 \* Subject to approval for waste disposal by County Health Department.  
 \*\* Water frontage.  
 \*\*\* See build-to-line requirements in §150-8, D  
<sup>†</sup> These Agricultural/Residential District Dimensional Requirements Apply to Special Development Districts

**§ 150-10. Exceptions to minimum lot sizes and widths.**

The provisions of § 150-9 shall not prevent the construction of a single- family dwelling, provided that the yard requirements are observed, on any lot which was lawful when created and which, prior to the effective date of this chapter, was in separate ownership duly recorded by plot or deed.

**§ 150-11. Clear-sight triangles to be maintained.**

- A. On any corner lot, no wall, fence or other structure shall be erected or altered and no hedge, tree, shrub or other growth, except agricultural crops, shall be maintained which may cause danger to traffic on a public street by obscuring the view. Visual obstructions shall be limited to a height of not more than two feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line 25 feet from the intersection of said street lines, United States postal boxes excepted.

- B. Where a private accessway intersects a public street, visual obstructions shall be limited to a height of not more than two feet above street level within the triangular area bounded by the street line, the edge of the private access way and a straight line drawn between points on both the street line and the edge of the access way 10 feet from the intersection of said lines.

**§ 150-12. Exceptions from height requirements; ~~additional height restrictions.~~**

- A. Maximum height regulations shall not apply to farm buildings, church spires, chimneys or other structures built above the roof and not devoted to human occupancy.

~~B. Buildings situated on lots abutting Little Sodus Bay shall not exceed two stories.~~

**§ 150-13. Essential services.**

The erection, construction, alteration or maintenance by public utilities or Village or other governmental agencies of underground or overhead gas, electrical or water transmission or distributions systems or communication systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishings of adequate service by such public utilities or Village or other Village or other governmental agencies or for the public health or safety or general welfare will be permitted, but not including buildings.

**§ 150-14. Corner lots.**

On a corner lot, the street side yard shall equal the required front yard for lots facing the street.

**§ 150-15a. Principal structures.**

For all zoning districts, only one principal structure shall be permitted per parcel of land. Additionally, no permanent accessory buildings shall be placed on a parcel of land without a principal structure already present on said parcel of land. A temporary accessory building may be permitted on a parcel of land without a principal structure with approval of a Special Use Permit from the Planning Board. The Planning Board, as part of its approval of the Special Use Permit, shall establish a time limit for a temporary accessory building; and at the end of such time a principal building shall be placed on the parcel of land or the temporary accessory building must be removed.



**ARTICLE V**  
**Off-Street Parking and Loading**

**§ 150-15. Off-street parking.**

- A. Parking space. The following off-street parking provisions shall constitute the minimum space required for the following buildings and uses hereafter erected, converted or otherwise established in any district:
- (1) Single-family detached dwelling on an individual lot: two off-street parking spaces for each dwelling.
  - (2) Multiple-family dwelling and mobile home in mobile home park: 1 1/2 parking spaces for each dwelling unit.
  - (3) Motel and hotel: one off-street parking spaces for each rental room or suite, plus one additional space for each full-time employee on the premises at one time.
  - (4) Eating or drinking establishment: one off-street parking space for each 50 square feet of floor area devoted to customer uses, plus one additional space for each full-time employee on the premises at one time.
  - (5) Church, library, fire station, theater and auditorium: one off-street parking space for every four seats provided for patrons, customers, members or guests.
  - (6) Retail and office uses: one off-street parking space for each 150 square feet of gross floor area.
  - (7) Institutions: one off-street parking space for each patients or resident bed, excluding bassinets, plus one space for each full- time employee on the premises at one time. However, hospitals, sanatoriums or convalescent homes primarily providing long-term custodial care for patients need not provide more than one space for each four patient beds.
  - (8) Industrial: one parking space for each three employees on the premises at one time.
  - (9) Home occupation: two off-street parking spaces, in addition to the requirements for the dwelling, excepting bed-and-breakfasts and tourist homes, which must provide one off-street parking space for each rental bedroom, plus one additional space for hired help, in addition to the requirements for the dwelling.
  - (10) Drive-in stand: a sufficient number of off-street parking spaces to accommodate the maximum number of stopping vehicles at any one time, but in no case fewer than three such spaces.
- B. Two or more establishments may join in meeting the requirements of this article, provided that the total area for parking is the sum of the individual requirements.
- C. Required off-street parking spaces shall be provided on the same lot with the principal use served or within a reasonable distance thereof.
- D. Driveways and parking areas for nonresidential uses, except home occupations, shall include, within the property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street or onto the property.

**§ 150-16. Off-street loading and unloading spaces.**

Off-street loading and unloading space, sufficient to accommodate the maximum demand generated by the use of the lot, shall be provided on any lot on which a building for commercial or industrial use is hereafter erected or substantially altered. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

**§ 150-17. Design of off-street parking facilities; reduction of existing facilities restricted.**

- A. All parking facilities provided under this article shall be located off the public right-of-way and shall contain an area of at least 200 square feet per automobile parking space, exclusive of accessways, aisles and maneuvering space. Each space shall have an all-weather surface installed to Village specifications.
- B. All illumination on parking lots shall be shielded so as not to produce a strong dazzling light upon abutting properties.
- C. Off-street parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than that required under this chapter for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.

**ARTICLE VI**  
**Signs**

**§ 150-18. Purpose; definitions; permit requirements; regulations.**

The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, promote economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community's appearance. This article is intended to promote signs that clearly present the visual message in a manner that is compatible with their surroundings. The appearance, character and quality of a community are affected by the location, size, construction, and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.

**A. Definitions.** As used in this article, the following terms shall have the meanings indicated:

**HOME OCCUPATION SIGN** — A sign which directs attention to an occupation being carried on wholly within a dwelling unit or in a building or other structure accessory to a dwelling unit.

**OFF-PREMISES SIGN** — A sign which directs attention to a person, business, profession, product, home occupation or activity not conducted on the same lot.

**ON-PREMISES SIGN** — A sign, which directs attention to a person, business, profession, product or activity conducted on the same lot. A "For Sale" or "For Rent" sign relating to the lot on which it is displayed shall be deemed an on-premise sign.

**SIGN** — Includes any permanent or temporary structure or part thereof or any device attached, painted or represented directly or indirectly on a structure or other outdoor surface that shall display or include any letter, word, insignia, flag or representation used as, or which is in the nature of, an advertisement, announcement, visual communication or direction or is designed to attract the eye or bring the subject to the attention of the public.

**B. Permit requirements; compliance required.**

- (1) All on-premises signs over six square feet in area and all off- premises signs, regardless of size, shall require the issuance of a zoning permit before erection or replacement. Off-premises signs shall not be permitted in the Residential District. All signs must comply with all regulations contained herein, irrespective of whether a permit is required. This subsection shall not apply to governmental signs.
- (2) All on-premises signs with a total area of six square feet or less and all home occupation signs not larger than four square feet in area shall be allowed without a permit.
- (3) The total area of all on-premises and off-premises signs on the same lot shall not exceed 48 square feet.

- (4) Signs directing patrons, members or an audience to temporary exhibits, shows or events shall only be allowed upon issuance of a permit and shall be subject to the following requirements:
  - (a) No sign shall exceed 24 square feet in area.
  - (b) Signs shall be removed within two weeks after the date of the exhibit, show, event or election.
  - (c) No permit shall be issued for the erection of such signs until a deposit shall be made with the Village Clerk in accordance with a fee schedule adopted by the Board of Trustees to guarantee removal within the time prescribed. Not-for-profit organizations will receive a permit without paying a fee.
  - (d) No such sign shall be posted earlier than two weeks before the occurrence of the event to which it relates.
  - (e) All signage on state DOT rights-of-way must conform to New York State regulations. The applicant must inform the Village of Fair Haven upon state approval prior to erection of signage.
- (5) Official traffic signs and other official federal, state, county, Village or town government signs are permitted.

C. General regulations. The following requirements shall apply to all signs unless noted otherwise:

- (1) No sign shall have visible moving or movable parts of flashing, animated or intermittent illumination.
- (2) No sign shall project over a public street or sidewalk.
- (3) In the Residential, Bay Front, and Agriculture Districts, no sign shall be located within 10 feet of any side property line.
- (4) The height of all signs in all districts shall not exceed 20 feet.
- (5) All signs shall be constructed of durable material and shall be kept in good condition and repair.
- (6) Any replacement sign shall conform to the provisions herein.

**ARTICLE VII**  
**Nonconforming Structures and Uses**

**§ 150-19. Definitions.**

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

**NONCONFORMING STRUCTURE OR LOT** — A structure or lot that does not conform to a dimensional regulation prescribed by this chapter for the district in which it is located or to regulations for signs, off-street parking, off-street loading or accessory buildings, but which structure or lot was in existence at the effective date of this chapter and was lawful at the time it was established.

**NONCONFORMING USE** — A use of a building or lot that does not conform to a use regulation prescribed by this chapter for the district in which it is located, but which was in existence at the effective date of this chapter and was lawful at the time it was established.

**§ 150-20. Continuation of existing structures and uses.**

The lawful use of any structure or land existing at the effective time of this chapter may be continued although such use does not conform with the provisions of this chapter, except as otherwise provided in this article.

**§ 150-21. Alteration or extension of existing structures or uses.**

A. A use of land or structure which does not conform to the regulations of this chapter shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions:

- (1) Such change shall be permitted only by special permit.
- (2) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became nonconforming.
- (3) Any increase in volume, area or extent of the nonconforming use shall not exceed an aggregate of more than 50% during the life of the nonconformity.

B. A structure which does not conform to the regulations of this chapter may be altered, reconstructed, or enlarged, provided that no such nonconformity is increased beyond its extent on the date that it became a nonconformity, except as provided that the use of the structure also falls under Subsection A of this section and any change shall be subject to the provisions of that subsection.

**§ 150-22. Restoration of damaged structures.**

No structure damaged by fire or other causes to the extent of more than 75% of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this chapter. Structures with damage to the extent of 75% or less of the fair market value may be constructed, repaired or used for the same nonconforming use, subject to the following provisions:

- A. The reconstructed structure shall not exceed the height, area or volume of the damaged structure, except as provided in this chapter.
- B. Reconstruction shall begin within six months from the date of damage and shall be carried on without interruption.

**§ 150-23. Abandonment of nonconforming uses.**

Whenever a nonconforming use has been discontinued for one full year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.

**§ 150-24. Reversions to nonconforming use unlawful; change of nonconforming use restricted.**

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use only under these conditions:

- A. Such change shall be permitted only by special permit.
- B. The applicant shall show that the nonconforming use cannot reasonably be changed to a use permitted in the district where such nonconforming use is located.
- C. The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:
  - (1) Traffic generation and congestion, including truck, passenger car and pedestrian traffic.
  - (2) Noise, smoke, dust, noxious matter, heat, glare and vibration.
  - (3) Storage and waste disposal.
  - (4) Appearance.

**§ 150-25. Displacement of conforming use unlawful.**

No nonconforming use shall be extended to displace a conforming use.

**§ 150-26. Change in district boundaries.**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses or structures existing therein or resulting from such change of district.

**§ 150-27. Zoning permit required; contents of permit.**

Zoning permits shall be issued by the Zoning Officer for all lawful nonconforming uses existing at the effective date of this chapter. The zoning permit shall include a statement that the use is nonconforming and shall list the specific conditions under which said use may continue.

**§ 150-28. Nonconforming lots of record.**

Lots duly noted upon the tax rolls of the Village at the time of enactment of this chapter shall be deemed to be nonconforming lots of record.

**ARTICLE VIII**  
**Administration and Enforcement**

**§ 150-29. Zoning Officer.**

The provisions of this chapter shall be administered and enforced by the Zoning Officer, who shall be appointed by the Trustees, or his duly appointed assistant. It shall be the duty of the Zoning Officer and he shall have the power to:

- A. Receive and examine applications for zoning permits and refer any applications to the Planning Board for review and recommendations, when deemed advisable.
- B. Issue zoning permits after approval and certification of occupancy only when there is a compliance with the provisions of this chapter and with other local laws; provided, however, that the issuance of a zoning permit shall not be deemed a waiver of the requirements of any other local law.
- C. Receive applications for special permits and forward these applications to the ~~Board of Appeals~~ **Planning Board** for action thereon.
- D. Following refusal of a permit, receive applications for appeals from alleged error of the Zoning Officer and variances and forward these applications to the **Zoning** Board of Appeals for action thereon.
- E. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter.
- F. Issue stop, cease and desist orders and order in writing corrections of all conditions found to be in violations of the provisions of this chapter. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating any such order shall be guilty of a violation of this chapter.
- G. With the approval of the Trustees, or when directed by them, institute in the name of the Village any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to restrain, correct or abate such violation, so as to prevent any illegal act, conduct, business or use in or about such premises.
- H. Revoke by order a zoning permit issued under a mistake of fact or contrary to the law or the provision of this chapter.
- I. Maintain a map showing the current zoning classification of all land.
- J. Upon the request of the Trustees, the Planning Board or the **Zoning** Board of Appeals, present to such bodies facts, records or reports which they may request to assist them in making decisions.

**§ 150-30. Zoning permits.**

- A. No structure shall be erected, constructed, reconstructed, extended or moved, and no land or building changed in use, until a zoning permit has been secured from the Zoning Officer. Upon completion of changes in use or construction, reconstruction, extension or moving of structures, the applicant shall notify the Zoning Officer of such completion.

- B. No permit shall be considered as complete or as permanently effective until the Zoning Officer has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this chapter.
- C. Zoning permits shall not be required for general maintenance work; painting; clearing woodlands; building ponds; tilling the soil; constructing fences, terraces, steps or other similar features; and landscaping. However, all such activities shall conform with the requirements of this chapter.
- D. Zoning permits shall be issued with a one-year life; provided, however, that if the work is not commenced within six months after the issuance of the zoning permit, the permit shall automatically expire, and a new permit shall be required before such work or change in uses commences.
- E. NOTE: There are special provisions for issuance of zoning permits in areas designated as flood hazard area by the Federal Emergency Management Agency. The Zoning Officer, when reviewing applications for zoning permits in these areas of any district, including plans and specifications for the proposed construction, shall, in addition to the regular duties, review all zoning permit applications to determine if the proposed construction is consistent with the need to minimize flood damage.

**§ 150-31. Certificate of occupancy required.**

No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Zoning Officer stating that the building or proposed use thereof complies with the provisions of this chapter and any other pertinent local law.

**§ 150-32. Zoning permit application requirements.**

- A. All applications for zoning permits shall be made in writing by the owner, tenant, and vendee under contract of sale or authorized agent on a form supplied by the Village and shall be filed with the Zoning Officer. The application shall include:
  - (1) A statement as to the proposed use of the building or land.
  - (2) A site layout drawn to scale showing the location, dimensions and height of proposed buildings, structures or uses and any existing buildings in relation to property and street lines.
  - (3) The number, location and design of parking spaces and loading spaces, if applicable.
  - (4) The size, dimensions, location and methods of illuminations for signs, if applicable.
  - (5) Any additional plans and information reasonably necessary for the Zoning Officer to ascertain whether the proposed use, change in use, erection, alteration or addition complies with the provisions of this chapter.
- B. A permit for any new use or construction which will involve the on-site disposal of sewage or waste or change in use or an alteration which will result in an increase volume of sewage or waste to be disposed of on the site or which will require a new or modified water supply shall not be issued until a certificate of approval has been issued by the Cayuga County Health Department.



**§ 150-33. Issuance of zoning permits.**

Zoning permits shall be granted or refused within 15 days after the written application has been filed with the Zoning Officer, except as provided for special permit applications. Upon completion of the activity authorized by any zoning permit, the holder of such permit shall notify the Zoning Officer of such completion.

**§ 150-34. Zoning permit fees.**

The applicant for a zoning permit shall, at the time of making application, pay to the Clerk, for the use of the Village, a fee in accordance with a fee schedule adopted by resolution of the Trustees upon the enactment of this chapter or as such schedule may be amended by resolution of the Trustees.

**§ 150-34.1. Residency of Zoning Officer.**

A person in order to hold the office of Zoning Officer for the Village of Fair Haven need not be a resident of the Village of Fair Haven but must be a resident of Cayuga or any other County adjoining the County of Cayuga. This provision is intended to and shall supersede the residency requirement of § 3 (1) of the Public Officers Law of the State of New York.

**§ 150-35. Zoning Board of Appeals established.**

In order that the objectives of this chapter may be more fully and equitably achieved and as a means for competent interpretations of this chapter, there is established a Zoning Board of Appeals for the Village.

**§ 150-36. ZBA procedures, minutes, records and decisions.**

- A. Procedures. The Trustees shall appoint a Chairman, and the Zoning Board of Appeals shall appoint a Secretary and shall prescribe rules in accordance with the provisions of the state statutes and this chapter for the conduct of its affairs.
- B. Meetings. Meetings shall be held at the call of the Chairman and at such other times as the Zoning Board of Appeals shall specify in its rules and procedures.
- C. Records and decisions. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the member and the final dispositions of each case. Every decision of the Zoning Board of Appeals shall bear the signatures of a majority of the members of the Zoning Board of Appeals on the original thereof. All decisions of the Zoning Board of Appeals shall be permanently filed with the official Village records. The Zoning Board of Appeals shall notify the Trustees, Planning Board and the Zoning Officer of all decisions and resolutions.

**§ 150-37. Notice of hearings.**

Upon filing with the Zoning Board of Appeals an application for a ~~special permit~~, variance or appeal from alleged error of the Zoning Officer, the Board shall fix a reasonable time and place for a public hearing thereon and give notice as follows:

- A. At least five days prior to the date fixed for public hearing, the Board shall publish in the official paper a description of the location of the building or lot and the general nature of the questions involved. At least five days before the hearing the Board shall mail notices thereof to the parties and to the Regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal.

**§ 150-38. Appeals from alleged error of Zoning Officer.**

The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination, including any order requiring an alleged violator to stop, cease and desist, made by the Zoning Officer in the enforcement of this chapter.

**§ 150-39. Variances.**

- A. The Zoning Board of Appeals shall have the power to authorize, upon appeals in specific cases, such variance from the terms of this chapter as will not be contrary to public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.
- B. The applicant shall have the burden of proof in establishing his right to a variance.
- C. In reaching its decision, the Board shall be guided by the following standards:
- (1) The granting of the variance shall be in harmony with the general purpose and intent of this chapter and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
  - (2) There must be proof of unique circumstances. These are special circumstances or conditions, fully described in the findings, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings in the neighborhood, and said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
  - (3) There must be proof of unnecessary hardship. If the hardship is general, that is, if it is shared by neighboring property, relief can be properly obtained only by legislative action.
  - (4) The granting of the variance is necessary for the reasonable use of the land or building, and the variance, as granted by the Board, is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship merely to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without knowledge of restrictions; it must result from the application of this chapter; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
- D. The Board may prescribe any safeguard that it deems to be necessary to secure substantially the objectives of the regulation or provisions to which the variance applies.

**§ 150-40. Powers and duties of Planning Board.****A. Special permits.**

- (1) ~~The Planning Board shall hear and decide upon application for special permits for any of the uses which this chapter requires the obtaining of a special permit from the Board. The Board shall take action on said application within 45 of its receipt.~~ The Planning Board shall conduct a public hearing within 62 days from the day an application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the village at least five days prior to the date thereof. The Planning Board shall decide upon the application within 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 board.
- (2) The applicant shall have the burden of proof in establishing his right to a special permit.
- (3) General requirements and standards applicable to all special permits:
  - (a) The Board shall grant a special permit when it finds adequate evidence that any proposed use submitted for a special permit will meet all of the following general requirements and standards listed for the other proposed use. The Board shall, among other things, require that any proposed use be:
    - [1] In the best interests of the Village, and the convenience of the community and the public welfare and not be a detriment to the immediate neighborhood.
    - [2] Suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
    - [3] In conformance with all applicable requirements of this chapter.
    - [4] Suitable in terms of effects on street or highway traffic and safety, with adequate access arrangements to protect major streets from undue congestion and hazard.
  - (b) In granting a special use permit, the Planning Board may impose whatever conditions regarding layout, circulation and performance it deems necessary to ensure that any proposed developments will secure substantially the objectives of this chapter. These conditions may include but are not limited to the following:
    - [1] Increasing the required lot size or yard dimension.
    - [2] Limiting the height, size or location of buildings.
    - [3] Controlling the location and number of vehicle access points.
    - [4] Increasing the number of required off-street parking spaces.
    - [5] Limiting the number, size, location and lighting of signs.
    - [6] Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
    - [7] Designating sites for open spaces.
- (4) Specific requirements and standards applicable to certain uses requiring a special use permit:

- (a) **Accessory Buildings.** For the purposes of this Section, accessory buildings do not include sheds as defined, regulated, and permitted under Chapter 117 of the Village of Fair Haven Code.

[1] Minimum yard regulations.

[a] Unattached accessory buildings in residential districts and accessory buildings which are not attached to a principal building shall be erected only in accordance with the following restrictions:

[i] No accessory buildings shall be located closer than 10 feet to the side and rear lot lines.

[ii] No accessory building shall be located closer to the street than the street wall of the principal building, bay front property exempted.

[iii] No accessory building shall be located closer to a principal building than 10 feet.

[b] Attached accessory buildings in residential districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.

- (b) **Automotive Business.** Automotive businesses, including the repair of vehicles and sale of gasoline and other products for automobiles, but not including junkyards or parts-reclamation businesses.

[1] All activities, except those required to be performed at fuel pumps, shall be carried on within a completely enclosed building.

[2] Fuel pumps may be located within the front yard area of the lot, but shall be at least 15 feet from any right-of-way.

- (c) **Bay Front Recreational Businesses.**

[1] The bay front recreational business enumerated herein shall be permitted by special permit (see § 150-40):

[a] Marine uses:

[i] Marinas.

[ii] Boat and marine engine repair.

[iii] Gas docks.

[iv] Fishing and boating supplies.

[b] Private club and joint access area, a "joint access area" being a single parcel of land cooperatively owned for the purpose of obtaining access to the bay for recreation.

[c] Seasonal lodging:

[i] Rental cottages.

[ii] Motels and hotels.

- [2] Bay front recreational businesses shall be established only upon lots no smaller than three acres and having no less than 200 feet of frontage upon the bay.
- [3] Such businesses shall demonstrate that the design and materials of the structure and landscaping would be consistent with the natural and man-made surroundings.
- [4] Such businesses shall comply with the buffer strip requirements in §150-8, D(2).
- [5] Additionally, it is desirable to demonstrate that the proposed activity will be compatible with and not made impractical by the natural environment in which it will be located. The applicant shall so demonstrate by providing documentation, where applicable, regarding the relationship between the proposed activity and the following environmental factors:
  - [a] Physical character of the site:
    - [i] Slope.
    - [ii] Depth to water table.
    - [iii] Unique or unusual land forms.
    - [iv] Depth to bedrock.
    - [v] Soil types.
    - [vi] Flooding potential.
    - [vii] Wetlands.
    - [viii] Surface water.
    - [ix] Drainage.
    - [x] Adjacent land uses.
    - [xi] Other factors set forth by the reviewing agency.
  - [b] Natural resources:
    - [i] Plant and wildlife.
    - [ii] Historic resources.
    - [iii] Visual settings.
    - [iv] Air quality.
    - [v] Water quality.
    - [vi] Open space.
    - [vii] Mineral resources.
    - [viii] Other factors set forth by the reviewing agency.
  - [c] Socioeconomic:
    - [i] Transportation patterns.
    - [ii] Unique energy requirements.

- [iii]
  - [iv] Noise.
  - [v] Drinking water.
  - [vi] Sanitary disposal.
  - [vii] Community growth patterns, including impacts on schools and municipal facilities.
  - [viii] Other factors set forth by the reviewing agency.
- (d) **Bed & Breakfast.** In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria:
- [1] A Bed and Breakfast shall only be permitted in a single-family, detached dwelling per the New York State Uniform Fire Prevention and Building Code requirements.
  - [2] The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated.
  - [3] The owner or operator of the Bed and Breakfast shall live full-time on the premises when the business is open per the New York State Uniform Fire Prevention and Building Code requirements.
  - [4] A Bed and Breakfast shall have a maximum of five guest rooms per the New York State Uniform Fire Prevention and Building Code requirements.
  - [5] The maximum length of stay for any guest is 30 consecutive days per the New York State Uniform Fire Prevention and Building Code requirements.
- (e) **Conversion of a One-Family Dwelling to a Two-Family Dwelling.**
- [1] Upon completions of the conversion, the converted dwelling shall meet all requirements of this chapter applicable to two-families.
- (f) **Drive-Through Service as Part of a Business.**
- [1] A drive-through service window and associated travel lane are permitted only on the rear or side of the building; and shall not be located parallel to Main Street between the sidewalk and the build-to-line for the building.
  - [2] The travel lane must provide stacking for a minimum of three (3) vehicles.
  - [3] The drive-through service window and associated travel lane shall be designed to coordinate traffic flow, parking and stacking requirements, and shall not interfere with the pedestrian travel way.
- (g) **Home Occupation.**
- [1] The home occupation shall be carried on wholly indoors and within the principal building or within a building or other structure accessory thereto.
  - [2] There shall be no use of show windows or displays or advertising visible outside the premises to attract customers or clients other than the home occupation announcement signs as permitted.

- [3] There shall be no exterior storage of materials.
  - [4] No external alterations, additions or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.
  - [5] No articles shall be sold or offered for sale except such as may be produced on the premises.
  - [6] No repetitive servicing by truck for supplies and material shall be required.
  - [7] The floor area devoted to home occupation shall not be more than 25% of the ground area of the principal residential structure or 500 square feet.
  - [8] In particular, a home occupation includes but is not limited to the following: art studio, professional office of a physician, dentist, lawyer, engineer, architect, writer or accountant. ~~tourist home; and bed and breakfast.~~
  - [9] Among the uses that shall not be interpreted to be home occupations are the following: animal hospital, commercial stables and kennels, funeral parlor, antique shop and restaurant.
  - [10] All accessory uses shall be subject to the off-street parking requirements of this chapter.
  - [11] All accessory uses shall be subject to the sign requirements of this chapter.
- (h) **Institutional and Educational Uses.**
- [1] Completely detached buildings on the same lot shall be not less than 20 feet from one another.
- (i) **Manufactured Home Park.**
- [1] Subject to provisions of Chapter 91, Manufactured Homes, of the Code of the Village of Fair Haven.
- (j) **Multiple-family dwelling.**
- [1] There shall be 15,000 square feet of lot area for the initial three dwelling units with 100 feet of road frontage. The minimum lot area shall be increased by at least 2,000 square feet for each additional dwelling unit over three.
  - [2] A minimum of 1.8 square feet of landscaped open space shall be required for each square foot of floor area devoted to multiple-family use. A minimum of 0.13 square feet of recreation space shall be required for each square foot of floor area devoted to multiple-family use.
- (k) **Private club.** A private club or lodge for members only and operated not-for-profit, **subject to the following provisions:**
- [1] No buildings shall be closer than 20 feet to any lot line.
  - [2] **In the Bayfront District the following shall apply:**
    - [a] Private club and joint access area, a "joint access area" being a single parcel of land cooperatively owned for the purpose of obtaining access to the bay for recreation.

(l) **Religious, sectarian and nonsectarian, denominational, private or public school, not conducted as a private gainful business.**

[1] The minimum lot size shall be three acres.

[2] All buildings shall be not less than 100 feet from any lot line.

[3] Completely detached buildings on the same lot shall be not less than 20 feet from one another.

(m) **Two-family detached dwelling.**

[1] **Must be** on a separate lot.

[2] The total lot area may not be less than the minimum lot required for a one-family detached dwelling for the district.

**B. Site plan review.**

(1) Sketch plan. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of the formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his/her proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

(a) A statement and rough sketch showing locations and dimensions of principal and accessory structures, parking area, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and where applicable, measures and features to comply with flood hazard and flood insurance regulations;

(b) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, right of ways, properties, easements and other pertinent features; and

(c) A topographic or contour map of adequate scale and detail to show site topography.

(2) Application for site plan approval. An application for site plan approval shall be made in writing to the Chairman of the Planning Board and shall be accompanied by information on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined by the Planning Board at said sketch plan conference.

(a) Site Plan Checklist:

[1] Title of drawings including name and address of applicant and person responsible for preparation of such drawing;

[2] North arrow, scale and date;

[3] Boundaries of the property plotted to scale;

[4] Existing watercourses;

[5] Grading and drainage plan, showing existing and proposed contours;



- [6] Location, design, type of construction proposed use and exterior dimensions of all buildings;
  - [7] Location, design and type of construction of all parking and truck loading areas, showing access and egress;
  - [8] Provision for pedestrian access;
  - [9] Location of outdoor storage, if any;
  - [10] Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
  - [11] Description of the method of sewage disposal and location, design and construction materials of such facilities;
  - [12] Description of the method of securing public water and location, design and construction of such facilities;
  - [13] Location of fire and other emergency zones, including the location of fire hydrants;
  - [14] Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
  - [15] Location, size and design, and type of construction of all proposed signs;
  - [16] Location and proposed development of all buffer areas, including existing vegetative cover;
  - [17] Location and design of outdoor lighting facilities;
  - [18] Identification of the location and amount of building area proposed for retail sales or similar activity;
  - [19] General landscaping plan and planting schedule;
  - [20] An estimated project construction schedule;
  - [21] Record of application for approval status of all necessary permits from state and county officials;
  - [22] Identification of any state or country permits required for the project's execution;
  - [23] Other elements integral to the proposed development as considered necessary by the Planning Board.
- (3) Review of site plan. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:
- (a) Location, arrangement, size and general site compatibility of building, lighting and signs.
  - (b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  - (c) Location, arrangement, appearance and sufficiency of off street parking and loading.

- (d) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  - (e) Adequacy of stormwater and drainage facilities.
  - (f) Adequacy of water supply and sewage disposal facilities.
  - (g) Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  - (h) Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
  - (i) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- (4) Planning Board action on site plan. Within 45 days of the receipt of an application for site plan approval, the Planning Board shall render a decision, file said decision to the Village Clerk and mail such decision to the applicant with a copy to the Zoning Officer. The time within which such a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.
- (a) Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy to the applicant, Zoning Officer, and file same with the Village Clerk.
  - (b) Upon disapproval of a site plan, the Planning Board shall so inform the Zoning Officer and the Zoning Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Village Clerk.
- (5) Reimbursable costs. Reasonable and necessary costs incurred by the Planning Board for consultation fee or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.
- (6) Performance guaranty. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Village Board after consultations with the Planning Board, Zoning Officer, Village Attorney and other appropriate parties.
- (7) Inspections of improvements. The Zoning Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- (8) Integration of procedures. Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this chapter or other requirements of the Village, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance. In addition to the standards for site plan review set forth in Subsection B above, the Planning Board may, when it deems it necessary and pertinent to a full understanding of the particular proposal, require

information regarding the production, emission, or transmission into the general neighborhood of dust, smoke, refuse, odor, gas, fumes, noise, vibration, or similar substance or conditions.

C. Special Development District.

- (1) The Planning Board shall advise the Village Board regarding the establishment of Special Development Districts (SDD) and review those uses and developments permitted by the Village Board as a SDD to determine compliance with applicable conditions of this chapter and the SDD.
- (2) An SDD shall be established only when the purposes, objectives and procedures are met.
  - (a) Purpose. In Special Development Districts (SDD), land and buildings may be used for any lawful purpose in those districts authorized by this chapter. The purpose of the SDD is to provide flexible land use and design regulations through the use of performance criteria and land impact considerations, so that developments incorporating individual building sites, common property, singular land use, and/or mixed land uses may be planned and developed as a unit. Where deemed appropriate, the Village Board may consider a proposed special development requiring a zoning district change from the original district to an SDD, in which the approved plan and a complete set of use and dimensional regulations become the basis for continuing land use controls.
  - (b) Objectives. In order to carry out the purpose of this article, an SDD shall achieve at least the following objectives:
    - [1] Work as a concentrated whole unit, being self-contained and nonconductive to expansion outside its boundaries at a future date, unless such expansion when added to the original SDD can act with it to create a larger self-contained unit.
    - [2] Provide open space as an integral part of the plan.
    - [3] Provide convenient location of commercial and service areas.
    - [4] Preserve trees, outstanding natural topography and geologic features.
    - [5] Make creative use of land and related physical development which allows an orderly transition of land from rural to more urban uses.
    - [6] Make efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs for construction, maintenance and housing.
    - [7] Provide a development pattern in harmony with objectives of the Village and County Master Plans.
    - [8] Provide a more desirable environment for dwelling, working, and/or recreation than would be possible through strict application of the regulation of this chapter.
  - (c) General requirements.
    - [1] Minimum area. Under normal circumstances, the minimum area requirements for an SDD shall be three contiguous acres of land, unseparated by existing streets, highways or other properties.

- [2] Ownership. The tract of land for the SDD shall be owned under legal option by the applicant who may be a single person, corporation, or a group of individuals or jointly by the owners of all property included in the SDD. In the case of multiple owners, the approved plan shall be binding on all owners.
- [3] Location. The SDD shall be applicable in the AR District of the Village of Fair Haven where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this section and the spirit of this chapter. An SDD proposal must demonstrate compatibility with the surrounding land uses, neighborhood character, and traffic pattern, capacity and volume.
- [4] Permitted uses. The use of land and buildings in an SDD may be for any lawful purpose as authorized by the Village Board in accordance with the procedures of this section; the following general uses, or combinations thereof, may be considered.
- [a] Residential uses. Residences may be a variety of types. In developing a balanced community, the use of a variety of housing types and densities shall be deemed most in keeping with the objectives of this section and the applicant shall demonstrate that he is reaching as broad an economic market as possible.
  - [b] Commercial, service and other nonresidential uses in a primarily residential SDD. These uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the residential SDD. Consideration shall be given to the project as it exists in its larger setting in determining the appropriateness of such uses. In no case shall more than 25% of the gross site area be permitted for commercial uses, services or nonresidential uses other than open space and nonprofit recreation.
  - [c] Commercial uses. If designed and organized toward the purposes and objectives of this section, an SDD with commercial uses as the major land use may be approved.
  - [d] Industrial uses. If designed and organized toward the purpose and objectives of this section, an SDD with industrial uses as the major land use may be approved.
- [5] Intensity of land use. Relatively high land use intensity of dwelling unit density may be permitted if it is demonstrated that a good overall dwelling, working and/ or recreational environment is thereby produced. In determining the suitability of land use intensity or dwelling unit density proposed for an SDD, each case shall be considered separately. Proposed land use intensity ratings and/or dwelling unit densities shall be completely documented by all facts, opinions and judgments used to justify the selection of the intensity rate or unit density.
- [6] Common property. "Common property" in an SDD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites.

When common property exists (and such may be required), the ownership of such common property may either by public or private; when common property exists by public or private ownership, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common properties and facilities thereon, including but not limited to private streets, drives, service and parking areas, open space and recreation areas.

- (d) Application procedures for SDD approval. For full approval of a proposed SDD the applicant shall:
- [1] Secure a zoning district change for his property from its present district to a Special Development District, which process shall be that of amending the zoning law and map to include the proposed SDD plan and all the related specifications, and use and dimensional regulations specific thereto;
  - [2] After the zoning district change, it shall be required that the subdivision and platting of all lands in the proposed SDD be subject to this chapter; and
  - [3] Before construction and occupancy of buildings or land, the proper permits shall be secured by the applicant in accordance with Article VIII of this chapter. When any SDD is proposed, before any permit for erection of a permanent building in such SDD shall be granted, and before any subdivision plat or any part thereof may be filed in the Cayuga County Clerk's Office, the applicant or his authorized agent shall apply for and secure approval of such SDD in accordance with the following specific procedures:
    - [a] Preapplication discussion stage. Prior to formal application, the applicant shall present the proposed SDD to the Village Planning Board in rough sketch and written descriptive form to get the initial opinions concerning the suitability of the concepts, and general elements of the development, and to make sure the required procedures for the SDD application are fully understood by the applicant. In this stage it is advised that most of the items in Subsection C(2)(d)[3][b] be addressed at least in rough form by the applicant. No approval at this stage shall be considered binding.
    - [b] Applications for SDD zoning. Application for the establishment of an SDD shall be made to the Village Board in plan (drawn to scale) and written report form. Prior to the Village Board action, to ensure that the proposed SDD is within the intent of the comprehensive planning activities of the Village, the Village Board shall immediately after receiving the application refer it for the purpose of review and recommendations to the Village Planning Board, which shall have 30 days from its next regularly scheduled meeting within which to report. As deemed appropriate, either the Village Board or the Village Planning Board may submit the SDD application to the Cayuga County Planning Board for an informal review. As applicable in accordance with §§ 239-l and 239-m of Article 12-B of the New York State Municipal Law, the Village Board shall refer to the SDD application for formal review and recommendations to the Cayuga County Planning Board which shall

have 30 days or an agreed-upon longer period from its next regularly scheduled meeting within which to submit its report. If either Planning Board does not report to the Village Board within the specified time period, their inaction shall be construed as them having no recommendations.

- [c] Public hearing. Within 45 days after receiving a report from the Village Planning Board, the Village shall schedule and conduct a public hearing for the purpose of considering the change in zoning district to SDD for the applicant's plan in accordance with procedures required under New York State Village Law.
- [d] Village Board action. Within 45 days after a public hearing, the Village Board shall render its decision on the SDD application. If the Village Board grants SDD zoning, the Zoning Map shall be so notated, and the local law shall be amended in order to define the legal boundaries of the SDD, but such action shall have the effect only of granting permission for development of the specific proposed land use in accordance with the use and dimensional specifications, plans and related material, filed with the Village Board and related to the specific SDD; such specifications, plans and related materials to include, if deemed necessary by the Village Board, to protect the public health, safety and welfare of the Village, any conditions and requirements for the applicant to meet. The approved plan and the related attachments shall be deemed an amendment to this chapter and shall serve as continuing land use controls for the specific Special Development District; the first zoned SDD shall be designated "SDD 1," with consequent unrelated developments districts to be numbered in continuing sequence.
- [e] Annual review of SDD. During the development stages the Village Board shall review the SDD annually in order to determine the amount and quality of the progress made by the developer toward fulfilling the specifications and plans and any attached conditions. Based upon the progress made by the developer, the Village Board may reconsider the SDD and further amend this chapter in relation to it, if progress is not in keeping with the staging approved by the Village Board.
- [f] Minimum plan requirements. In order for the Village Board to adequately evaluate the SDD proposal, the application (in its plan and written report form) shall address the following areas, and the information shall be furnished therein in a reasonably complete manner.
  - [i] Project particulars. Shall include the name and location of the project; name(s) and address(es); a legal description of the property; the names of the owners of abutting properties.
  - [ii] Type of development. The type of development shall be fully described, including at least the following information:
    - [A] Residential. Total acreage of residential area and each residential portion of the development; total number of dwelling units and number in each residential portion

percentage and number of dwelling units by type (single-family, garden apartments, townhouses, etc.); dwelling unit; density per gross site acreage; estimated population of the development and estimated number of school age children.

[B] Commercial. Total acreage of commercial area; gross leasable floor area in square feet; general description of commercial types and their general requirements for receiving and delivering goods.

[C] Industrial. The total acreage of industrial area; types of industry and industrial processes involved; source, type, general quantities and method of shipment for raw materials; general quantities and method of shipment for products; types of wastes and residuals.

- (3) Stage of development. Description of plan and in written report of the planned staging of the project (and such staging may be required).
- (4) Natural site. A description of the natural site shall be included with at least the following information: soil characteristics and limitations; extent of and treatment intended for the site's vegetative cover (especially trees); topographical features (on topographic map at ten-foot contour intervals); existing and proposed site drainage; foreseeable needs of the site for construction precautions; the projected effects upon the ground and surface waters of the site and community; possible air pollution hazards.
- (5) Site planning and design considerations. Descriptions and illustrations of the following: site ingress and egress; parking; on-site pedestrian and vehicular circulation; general landscaping treatment; general location and arrangement of buildings and other structures; refuse storage and removal facilities; locations of all facilities, including public and private; and general visual description.
- (6) Transportation and traffic. Descriptions of at least the following: existing streets serving the area; level of service provided by existing streets in terms of traffic counts and street traffic capacities; expected modifications for existing street system required by project; estimated daily automobile trips generated by the residential and other uses; availability of public transportation to site; design consideration for deterring on-site and area traffic congestion.
- (7) General market information. Describe the need for the proposed land uses; their proposed locations and their proposed quantities; and the intended market structure for the residential units (prices and rents, describe whether low-income, middle-income, luxury, etc.)
- (8) Projected fiscal impacts on Village. Calculations of projected Village revenues and costs to be expected by the Village as a result of the proposed development.
- (9) Utilities and related services. Describe the following and detail their intended locations on the plan(s): the method and projected quantities of wastewater (sewage) from the development; demand and source of supply for water; level of service needed and available for fire protection; demands for and availability of gas and electric; projected quantities of and method of disposal for solid wastes.

- (10) General effects of development on neighborhood and community appearance and land use. Description of effects on the appearance; relationship of project to predominant character and land use in area (compatibility).
- (11) Relationship of proposed SDD to official Village and county development policies. Information on how the proposed SDD relates to the local and area wide goals and policies as stated in plans and regulations.
- (12) Development, operation and maintenance of open space and common properties. A general statement concerning the responsibility for these and proposed methods for their implementation.
- (13) Developer competence. Evidence in the applicant's behalf to demonstrate his competence to carry out plan and his awareness of the scope of the project, physical/financial.
- (14) Other. Any other such information as the Village Board deems to be reasonably pertinent to the adequate consideration and evaluation of the proposed project.
- (15) Design standards and specific requirements. When an SDD has been approved by the Village Board, the Planning Board shall conduct such project specific reviews as may be necessary. These shall include determination of compliance with such special conditions enumerated in this chapter as are made applicable to the SDD under consideration.

D. Other. The Planning Board shall have such other powers and duties as specified within this law, Laws of the State of New York and as conferred by the Village Board of Fair Haven.

#### **§ 150-41. Actions of Board in exercising powers.**

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determinations, including a stop order or orders to cease and desist as ought to be made. Notice of such decision shall forthwith be given to all parties in interest.

#### **§ 150-42. Who may appeal.**

Appeals to the Board of Appeals may be taken by any person or official aggrieved or affected by any provision of this chapter or by any decision, including any order to stop, cease and desist issued by the Zoning Officer in enforcing the provisions of this chapter.

#### **§ 150-43. Rules and procedures for filing of appeals and applications.**

A. General rules and procedures for appeals and applications

- (1) Any appeal shall be made by filing the same with the Zoning Officer within 30 days after the date of the Zoning Officer's adverse decision.
- (2) All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
- (3) All appeals and applications shall refer to the specific provisions of this chapter involved.
- (4) All appeals and applications shall set forth names and addresses of all adjoining owners, including those across public roads from the subject property.



- B. Appeals from alleged error. Appeals from alleged error of the Zoning Officer shall specify the alleged error, the section or sections of this chapter to which it pertains and the interpretations thereof that is claimed.
- C. Variance appeal. Appeals for variance from the strict application of this chapter shall include the zoning permit application denied by the Zoning Officer, together with a statement with any supporting evidence regarding the requirements listed.
- D. Special permit applications. Applications for special permits shall include a zoning permit application with all information required therein and a statement with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this chapter.

**§ 150-44. Review of applications by Planning Board.**

The Board of Appeals may request an advisory opinion from the Planning Board on all applications. The Planning Board will submit a report of such advisory opinion prior to the date of the public hearing held by the Board on an application.

**§ 150-45. Appeals to court.**

Any person or persons jointly or severally aggrieved by a decision of the Board of Appeals or any officer, department, board or bureau may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision in the office of the Clerk.

**§ 150-46. Appeal and application fees.**

Appeals and applications before the Board of Appeals shall be accompanied by a payment to the Village in accordance with a fee schedule adopted by resolution of the Trustees upon enactment of this chapter or as such schedule may be amended by resolution.

**§ 150-47. Review of variance and special permit applications by County Planning Board.**

The Boards shall refer variance and special permit applications to the County Planning Board in accordance with §§ 239-1 and 239-m of the New York State General Municipal Law.

**§ 150-48. Compliance with environmental quality review regulations required.**

No action shall be approved or disapproved by the Zoning Board of Appeals unless the applicant has complied with the State Environmental Quality Review Law.

**ARTICLE IX**  
**General Provisions**

**§ 150-49. Amendment of provisions.**

- A. The Board of Trustees may from time to time on its own motion, or on petition, or on recommendation of the Planning Board or the Zoning Board of Appeals, amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing.
- B. Every such proposed amendment or change shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Trustees, by resolution adopted at a meeting, shall fix the time and place of public hearing on the proposed amendments and cause notice to be given as follows;
- (1) By publishing a notice of the time and place of the hearing at least 10 days prior to the date of such hearing in a paper of general circulation.
  - (2) A written notice of any proposed change or amendment affecting property within the protectively zoned area of a house project authorized under the Public Housing Law, as such area is shown on an approved Zoning Map filed with the Zoning Officer, shall be given to the Housing Authority erecting or owning the project and to the government providing financial aid for assistance thereto at least the 10 days prior to the date of such hearing.
  - (3) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commissioner having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.
  - (4) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, Village, town or county shall be given to the Clerk of such municipality and to the Clerk of the County Legislature at least 10 days prior to the date of such hearing.
  - (5) In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of the immediately adjacent extending 100 feet therefrom or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members.

**§ 150-50. Referral to County Planning Board.**

As required under § 239-m of the New York State General Municipal Law, certain variances, special permits and amendments shall be referred to the County Planning Board for review and recommendations. Such referrals shall be made for proposed variances, special permits and amendments which affect land within 500 feet of the boundary of the city, Village or town, or of the boundary of any county or state park or other recreational area, or of any county or state park or other recreational area, or of any county or state parkway, expressway, throughway or other road or highway, or of the right-of-way of any stream or drainage channel owned by the county or for which the county has established lines, or of any county or state lands on which a public building or institution is situated. Within 30 days of referral, the County Planning Board shall report its recommendation and shall support them with a full statement of its reasons. If the County

Planning Board fails to report, actions on the proposals may proceed. If the County Planning Board disapproves the proposal or recommends modifications thereof, the town agency having jurisdiction shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after a resolution fully setting forth the reasons for such action.

**§ 150-51. Enforcement; remedies.**

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this chapter or any other local law or other regulations made under authority conferred thereby, the proper local authorities, in addition to other remedies, may institute any appropriate action or proceedings to prevent any illegal act, conduct, business or use in or about such premises, and, upon the failure or refusal of the proper local officer, board or body to institute any such appropriate action or proceeding for a period of 10 days after written request by a resident taxpayer so to proceed, any three taxpayers residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer board of body is authorized to do.

**§ 150-52. Penalties for offenses.**

- A. For any and every violation of the provisions of this chapter, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist; the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violations have been committed or shall exist; and the general agent, architect, builder, contractor or any other person who knowingly commits, takes part in or assists in any such violation or who maintains any buildings or premises in which any such violations shall exist, shall be liable, upon conviction thereof, to a fine or penalty not exceeding \$50 or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment. Each week's continued violation shall constitute a separate additional violation.
- B. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate and report thereon to the Trustees.

**§ 150-53. Severability.**

It is hereby declared to be the legislative intent that:

- A. Should the courts declare any provisions of this chapter to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions of this chapter shall continue to be separately and fully effective.
- B. Should the courts find the application of any provision or provisions of this chapter to any lot, building or other structure or tract of land to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the controversy, and the application of any such provision to the other persons, property or situation shall not be affected.

**§ 150-54. Repealer.**

The local law effective October 17, 1977, and entitled the "Zoning Law of the Village of Fair Haven," and all other amendments, are hereby repealed. All other existing laws or parts of laws in conflict with this chapter, to the extent of such conflict and no further, are hereby repealed.

**§ 150-55. When effective.**

This chapter shall take effect 10 days after its adoption.