

ZONING LAW – Part 1 of 3

Town of Hardenburgh. New York

TOWN OF HARDENBURGH

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ARTICLE I

SCOPE AND PURPOSES

SECTION 1.1 SCOPE

This Zoning Law, hereby enacted for the Town of Hardenburgh, New York, shall regulate or restrict the height, number of stories and size of buildings, the size of yards, lots and open spaces, the density of population and the location and use of buildings, structures and land for residence, trade, industry or other purposes as empowered by Section 261 of the Town Law of the Consolidated Laws of the State of New York.

SECTION 1.2 PURPOSES

This Zoning Law is created in accordance with, and as a means of effectuating a comprehensive plan for protecting and promoting public health, safety, comfort, convenience, economy, and general welfare. Specifically, this Law is intended to carry out the following goals, among others:

- a. To preserve the rural character of the Town and its sensitive natural environment;
- b. To promote the use of land in accord with its capacity to accommodate development and to restrict development where it would degrade the natural resources of the Town;
- c. To promote and protect the character and stability of established uses while allowing the flexibility and mixture of uses traditional in a rural community;
- d. To enhance the value of land and conserve the value of buildings;
- e. To enhance the physical environment of the Town and promote appropriate scale and design of land and buildings;
- f. To eliminate or improve any existing detrimental conditions with regard to land or buildings or the use thereof;
- g. To protect existing agriculture and aquaculture uses and encourage their future growth.
- h. To prevent excessively dense development;
- i. To provide adequate light and air to all buildings and prevent overcrowding of structures;
- j. To assure privacy for residences and freedom from nuisances and harmful and unsightly uses;
- k. To protect the community against unsightly, obtrusive, and noisome land uses and operations; and

To facilitate the proper administration and appropriate and effective enforcement of this Law.

SECTION 1.3 NON-INTERFERENCE WITH OTHER LAWS

This Law is not intended to abrogate, render invalid, or interfere with the application and administration of any other lawful statute, ordinance, regulation, easement, private agreement, covenant, deed restriction, or other legal relationship, public or private. Wherever any lawful statute, ordinance, regulation, easement, or other legal relationship imposes controls which are inconsistent with any provisions of this Law, then those provisions which are the most restrictive or impose higher standards shall take precedence.

ARTICLE II

ENACTING CLAUSE. SHORT TITLE AND GENERAL PROVISIONS

SECTION 2.1 ENACTING CLAUSE

The Town Board of the Town of Hardenburgh in Ulster County, New York, acting under the authority of the Municipal Home Rule Law of the State of New York, hereby adopts and enacts this Law as the Comprehensive Zoning Law of the Town of Hardenburgh.

SECTION 2.2 SHORT TITLE

This Law shall be known and may be cited and referred to as the TOWN OF HARDENBURCH ZONING LAW.

SECTION 2.3 OFFICIAL ZONING MAP

The Town of Hardenburgh Zoning Law does not delineate separate zoning districts. The regulations establish one residential district, which also permits certain non-residential uses, the provisions for which shall apply to and be administrated uniformly throughout the entire Town. If separate zoning districts are established in the future, a map shall be prepared and adopted, shall be declared to be an appurtenant part of this Law and shall be kept up to date in the office of the Town Clerk for the use and benefit of the general public.

SECTION 2.4 EFFECT OF ENACTMENT OF THIS ZONING LAW

Following the effective date of this Law:

2.4.1 No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this Law.

2.4.2 Nothing contained in this Law shall require any change in the plans, construction, or designated use of a building complying with existing Law, a permit for which shall have been duly issued before the effective date of this Law, and which building shall have been completed, in accordance with such plans as have been filed, within one year from the effective date of this Law.

2.4.3 Any uses not specifically permitted shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this Law, shall not be deemed to be an exhaustive list, but to have been included for the purposes of clarity and emphasis, and to illustrate by example some of the uses frequently proposed that are deemed undesirable and incompatible in the particular district.

ARTICLE III

STANDARDS GOVERNING USE AND AREA

SECTION 3.1 SCHEDULE OF LAND USES

The following Schedule of Land Uses is hereby incorporated into and made part of these zoning regulations and shall be referred to as the "Land Use Schedule".

In the case of a question or interpretation as to the classification of a particular use, the definitions and categories used in the Standard Industrial Classification Manual published by the federal Office of Management and Budget (SIC Manual), 1987 Edition, shall prevail.

The following headings in the Land Use Schedule have the following meaning:

Permitted By Right A use in this category which complies with the standards of this Law requires no further review or approval under this Law. However, issuance of a building permit may be required.

Subject to Special Permit A use in this category is permitted only upon the issuance of a special permit by the Planning Board in accord with Section 8.2. Such a use existing on the date of enactment of this Zoning Law shall be considered as if it were permitted by right and no further approvals shall be required.

See also Section 5.1 Supplementary Regulations on Land Use.

SECTION 3.2 SCHEDULE OF AREA AND BULK DIMENSIONS

The following table establishes the lot size, setbacks and other dimensional requirements for all lots and buildings in the Town of Hardenburgh. These minimum requirements may be increased by other provisions of this Law. See Section 4.2.

LOT AREA DIMENSIONS

	Minimum Lot area	2 acres	
	Minimum Lot width	200 feet	
	Minimum Building Set-backs Front Side Rear	20 feet 30 feet 50 feet	
	Maximum Building Height	35 feet	

See also Section 5.2 Supplementary Regulations on Area and Bulk. SECTION 3.1 LAND USE SCHEDULE

Use (see also definitions)	Permitted by Right	Subject to Special Permit
RESIDENTIAL		
One and two family dwellings	X	
Mobile Homes	X	
Mobile _Home _Parks		X
Home _Occupations	X	
Commercial Campgrounds & R.V. Parks		X
Multiple _Dwellings		X
Bed and _Breakfast _Inns	X	
Customary _Accessory _Uses	X	
COMMERCIAL AGRICULTURE, FORESTRY AND MINING		
Farmstands and Nurseries	X	
Agriculture and Agriculture	X	
Veterinary and Animal Services	X	
Forestry	X	
Sawmills		X
Mining & Quarrying of Non-metallic & Non-fuel Minerals		X
Logging	X	
MANUFACTURING AND CONSTRUCTION		
General Contractors and Builders	X	
Manufacturing and Assembling		X
WHOLESALE AND RETAIL TRADE		
Wholesale Trade		X
Retail Stores and Shops		X
Food Stores/General Stores		X
Motor Vehicle Repair		X
Restaurants		X
SERVICES AND OFFICE USES		
Personal, Business and Financial Services		X
General and Professional Offices		X
Hotel and Motels		X
Resorts and Conference Centers		X
Membership, Sports & Recreation Clubs & Schools including hunting, fishing & Riding	X	
Public and Private Schools		X
Cultural Facilities		X
Churches and Places of Worship	X	
Government Offices and Facilities	X	
Health and Social Services		X
Cemeteries		X
Utility Sub-Stations		x
Flying Fields		X

ARTICLE IV PERFORMANCE STANDARDS

SECTION 4.1 PURPOSES

The purposes of this article are as follows:

- a. To protect the Towns sensitive, unique physical features from despoilment, including mountain tops, hill tops and ridgelines; steep slopes; flood hazard areas; trout streams and other protected streams; lakes and ponds; and wetlands.
- b. To preserve the visual qualities of the Town as exemplified by a blend of wooded hillsides, open fields, and free flowing mountain streams interspersed with small groups of buildings and related rural uses.
- c. To encourage sensible usage of natural resources, such as timber, bedrock deposits and agricultural soils while protecting their environmental setting, and to restore disturbed sites promptly.
- d. To allow a mixture of uses appropriate in a rural, mountaintop setting in a manner which protects neighboring uses from possible conflicts and the natural environment from adverse impacts.

SECTION 4.2 NATURAL RESOURCE PROTECTION STANDARDS

4.2.1 SITE DEVELOPMENT CAPACITY

- a. The total number of lots permitted on any tract of land shall be

determined by using the following procedure based on the data in the table in 4.2.3 below: The gross site area (in acres) within each resource category (column (a)) shall be divided by the area allocation in column (b). Where such computation results in a fraction of a lot, the result shall be rounded to the nearest whole number. These are not minimum lot sizes. Specified minimum lot sizes are set forth in column (c). The only exceptions to this procedure are set forth in LL2.2.b. and c. below.

- b. Where land is located in more than one resource category, only the greatest area allocation shall apply.

4.2.2 MINIMUM LOT SIZE

- a. Lots shall comply with the minimum lot size in 4.2.3 (column c) below for each resource category in which they are proposed to be located.
- b. When approving a subdivision, the Planning Board may allow a waiver of the minimum lot size in any resource category, as set forth in column © provided that no lot has less than two-thirds the required area and that the average lot size in each category is at least equal to that required in column (c).
- c. Regardless of the resource category in which it is located, any lot of record on the date of adoption of this local law may be subdivided into two lots, each of which has at least two acres in area, subject to approval by the Planning Board

in accord with the requirements of the Town of Hardenburgh Land Subdivision Regulations. See also Section 6.5 concerning existing undersized lots.

4.2.3 TABLE OF AREA ALLOCATION AND LOT SIZES

(a) RESOURCE CATEGORY	(b) AREA ALLOCATION PER LOT Acres	(c) MINIMUM LOT SIZE Acres
None	5	2
Designated wetland and buffer area	15	*
Area within 250 feet of a protected stream	10	**
Area within 500 feet of a pond with a surface area of 10 acres or more	10	10
Area within a designated flood hazard area	15	**
Area above elevation 2,500 ft.	10	15
Land with a slope of 15-25%	10	15
Land with a slope in excess of 25%	15	**
Prime agricultural soils	10	2

*Land located within this resource category area may comprise no more than 25% of the required minimum lot area of land in the adjacent category and no principal structure may be located within the resource area. See Exhibit A, Diagram 1.

**Land in this category may comprise no more than 50% of the required minimum lot area of land in the adjacent category. See Exhibit A, Diagram 2.

EXHIBIT A

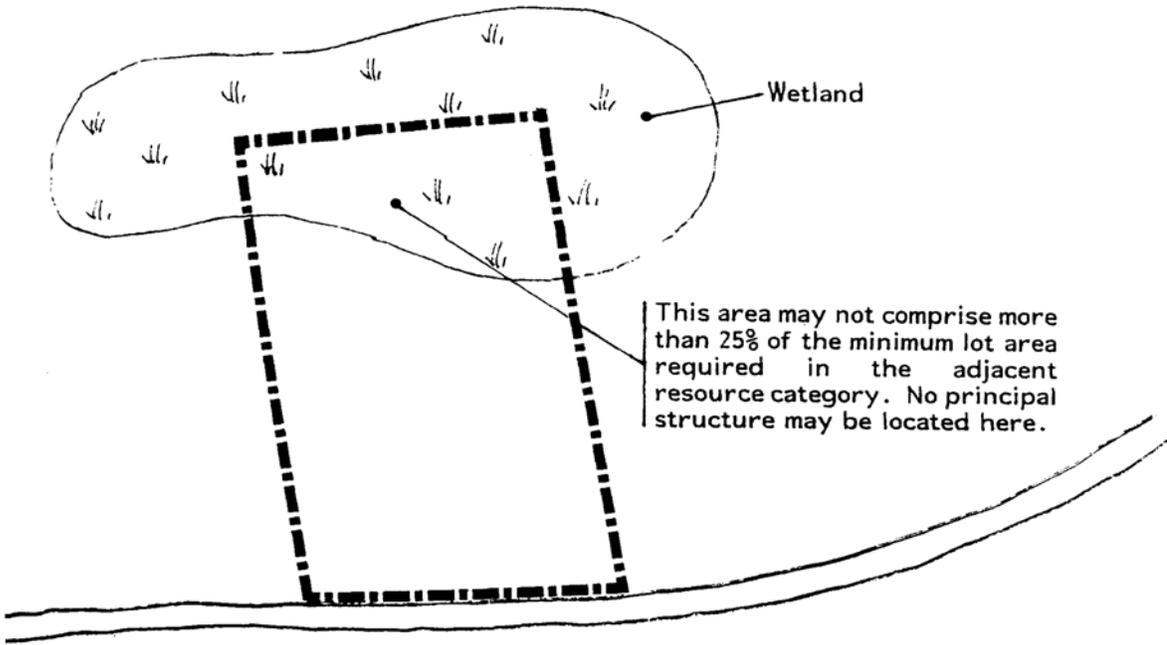
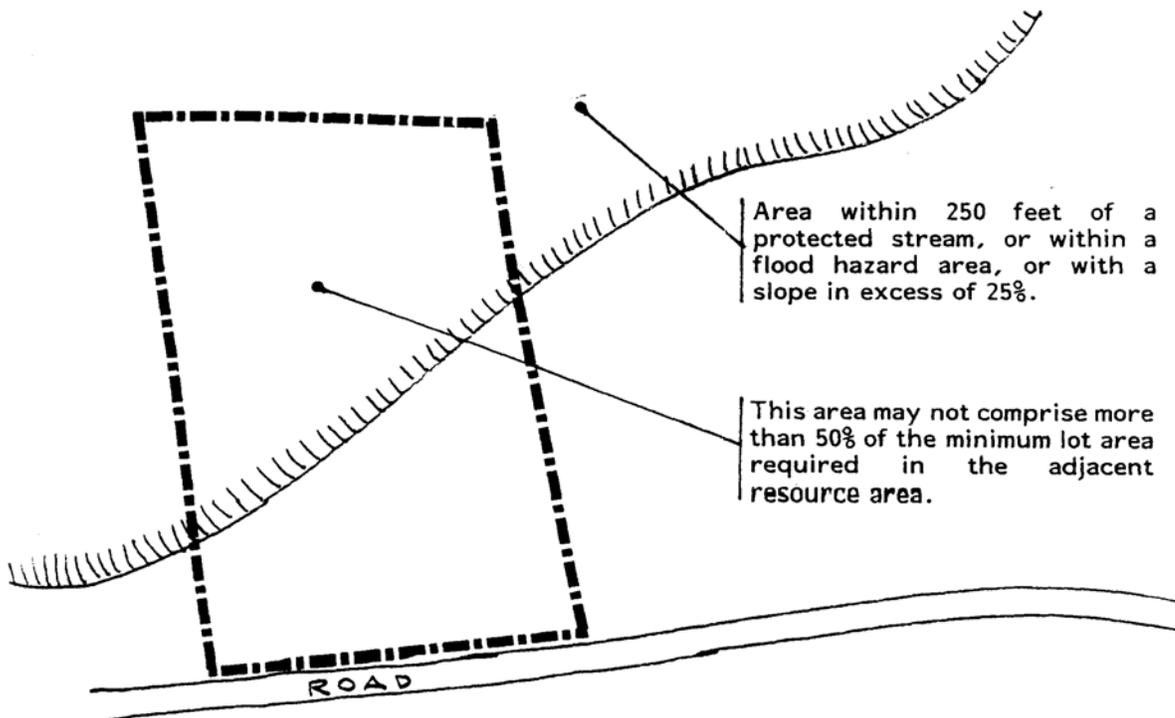


Diagram 1



SECTION 4.3 LAND USE COMPATIBILITY STANDARDS

4.3.1 INTENT

The standards of this section are intended to permit flexibility in the location of non-residential uses by establishing standards to ensure that such uses will be compatible with neighboring uses and the Town's natural environment.

4.3.2 LOCATION OF NON-RESIDENTIAL USES

a. Resource Category

No use other than a one or two family home, mobile home, home occupation, bed and breakfast inn, agriculture, forestry or logging shall take place within the area of any resource category listed in 4.2.3 above.

b. Access Road

Any use other than a one or two family home, mobile home, home occupation, bed and breakfast inn, agriculture, forestry or logging shall have direct and continuous access via a Town maintained road or other road deemed adequate by the Planning Board to provide safe and sufficient access to the proposed use.

4.3.3 BUFFERS AND SCREENING OF NON-RESIDENTIAL USES

In order to prevent non-residential uses from detracting from the residential environment of adjacent properties by noise, glare or unsightly conditions, all non-residential uses shall provide buffers and/or screening, as described below. All such buffers or screening shall be provided within the lot on which the non-residential use is located.

a. Buffers

Buffers shall be provided, when required, with the minimum width indicated for each land use as set forth in 4.3.4 below. The buffer shall be provided along all property and street lines and shall consist of either natural vegetation, landscaping or agriculture crops. No buildings or structures with an area of more than 50 square feet or a height of more than seven feet or parking areas for more than three cars or other paved areas (except access drives) may be located in the required buffer area. The required buffer may be reduced in width by 50% if screening, as defined in b. below, is provided within the reduced area.

b. Screening

Where required in the table below, screening shall be provided to shield from the view of adjoining properties and rights-of-way those activities that are associated with a non-residential use but which take place outside the confines of a building. Such activities include, but are not limited to, storage of materials or equipment, parking of vehicles other than automobiles or "pickup" trucks, fuel storage tanks or utility equipment, or any manufacturing operation. If no such actions are proposed, no screening shall be required.

Screening shall consist of either natural vegetation, topographic features, appropriate plantings, opaque wood fencing, earthen berms or a combination thereof. The design of any required screening must be approved by the Planning Board prior to issuance of a building permit. As an alternative to screening, a buffer three times the required minimum may be provided.

SECTION 4.3.2 TABLE OF REQUIRED BUFFERS AND SCREENING

Use (see also definitions)	Minimum Buffer Width (in feet)	Screening Required
RESIDENTIAL		
One and two family residences	NA	
Mobile Homes	NA	
Mobile Home Parks	150	X
Home Occupations	NA	
Commercial Campgrounds & R.V. Parks	300	X
Multiple Housing	150	
Bed and Breakfast Inns	NA	
Customary Accessory Uses	NA	
COMMERCIAL AGRICULTURE FORESTRY AND MINING		
Farmstands and Nurseries	NA	
Agriculture and Agriculture	NA	
Veterinary and Animal Services	300	X
Forestry	NA	
Sawmills	300	X
Mining & Quarrying of Non-metallic & Non-fuel Minerals	300	
Logging	NA	
MANUFACTURING AND CONSTRUCTION		
General Contractors and Builders	150	X
Manufacturing and Assembling	300	X
WHOLESALE AND RETAIL TRADE		
Wholesale Trade	150	
Retail Stores and Shops	150*	
Food Stores/General Stores	150*	
Motor Vehicle Repair	300	X
Restaurants	300*	
SE SERVICES AND OFFICE USES		
Personal, Business and Financial Services	150	
General and Professional Offices	150	
Hotel and Motels	300	
Resorts and Conference Centers	300	
Membership, Sports & Recreation Clubs & Schools including hunting, fishing & Riding	150	
Public and Private Schools	150	
Cultural Facilities	150	
Churches and Places of Worship	150	
Government Offices and Facilities	150	
Health and Social Services	150	
Cemeteries	NA	

Utility Sub-Stations	300	X
Flying Fields	NA	

No buffer shall be required between the street and the use.

ARTICLE V

REGULATIONS AND STANDARDS GOVERNING USE. BULK AND OFF-STREET PARKING

SECTION 5.1 SUPPLEMENTARY REGULATIONS ON USE

5.1.1 PRINCIPAL RESIDENTIAL BUILDINGS PER LOT

More than one principal residential building may be placed on a lot only if each residence is located so that it would conform to all area and bulk regulations of this Law and to the Town of Hardenburgh Land Subdivision Regulations if a separate lot were created for each residence.

5.1.2 AGRICULTURAL USES AND RIDING STABLES

Nothing in this Law shall prevent the keeping of domestic or farm animals by a resident, on his own property, for the resident's own personal use and enjoyment. The following provisions shall apply only to agricultural uses where plants or animals are produced, kept or maintained for sale or lease.

5.1.3.1 No building housing horses, farm animals or fowl shall be located within 50 feet of a street or property line.

5.1.3.2 Unenclosed storage of fertilizer, manure or pesticides shall take place no closer than 100 feet from any street or property line.

5.1.3 HOME OCCUPATIONS

Any person may conduct a business, trade or profession from his residence, as an accessory use, in accord with the following standards:

5.1.3.1 One free standing sign not exceeding six square feet per face in area and one wall sign not exceeding two square feet shall be permitted to identify the use.

5.1.3.2 A home occupation may be conducted within the principal building on the lot or a permitted accessory structure.

5.1.3.3 The floor area designed for and allotted to the home occupation shall not exceed 1,000 square feet of total floor area.

5.1.3.4 No more than two (2) persons who are not residents of the dwelling unit shall be employed in the home occupation.

5.1.3.5 No materials or equipment used in the home occupation shall be stored or displayed outside, except in the rear yard, unless enclosed within a fence or landscaped screen.

5.1.3.6 At least one additional off-street parking space shall be provided for a home occupation, in addition to those required for the principal residential use. Such spaces may be provided in the driveway but not elsewhere in any required front yard.

5.1.3.7 The home occupation shall not result in traffic, noise, vibration, odor, smoke, glare or electrical interference beyond that normally generated by other permitted uses.

5.1.4 USES REQUIRING A SPECIAL PERMIT

The following uses shall satisfy the criteria set forth below in addition to the standards set forth in Section 8.2:

a. **Mobile Home Parks Campgrounds and R.V Parks**

The number of sites, pads or hook-ups shall not exceed twice the development capacity of the site as determined in accord with Section 4.2.1.

b. **Multiple Residences**

The number of dwelling units shall not exceed one and one-half (1 1/2) times the development capacity of the site as determined in accord with Section 4.2.1.

c. **Hotels Motels Resorts and Conference Centers**

The total number of guest accommodations shall not exceed three times the development capacity of the site as determined in accord with Section 4.2.1.

d. **Commercial Telecommunications Facilities -** No commercial telecommunications (CT) facility shall hereafter be used, erected, moved, reconstructed, changed or altered nor shall any existing structure be modified to serve as a commercial telecommunications facility unless in conformity with the standards, regulations and procedures set forth in Appendix A which is attached to and made a part of this Zoning Law.

5.1.5 SIGNS

No permanent or temporary sign erected, posted or otherwise displayed shall exceed an area of 32 square feet per face.

5.1.6 PROHIBITED USES

Notwithstanding any other provisions of this Law, no junkyard, as defined herein, shall be permitted in the Town of Hardenburgh.

SECTION 5.2 SUPPLEMENTARY REGULATIONS ON AREA AND BULK

5.2.1 HEIGHT EXCEPTIONS

The height limitations of this Law, as shown on the Schedule of Area and Bulk Dimensions, shall not apply to the following structures, subject to paragraphs b and c of this Section:

- a. Church spires, silos, belfries, cupolas and domes not used for human occupancy; chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level; parapet walls or cornices provided they do not exceed the height limit by more than five (5) feet; non-commercial radio or television receiving antennas, public utility transmission towers or cable.
- b. No such structures shall, in their aggregate coverage, occupy more than 10 percent of the roof area on which it is located, or 5 percent of the lot area, if free standing.
- c. Any such proposed structure exceeding 50 feet in height shall be permitted only by special permit issued by the Planning Board.

5.2.2 SETBACKS

5.2.2.1 Front Setback Measurement

The required front setback shall be measured from the abutting right-of-way or street line, except that, where such right-of-way or street is less than 50 feet in width, the required front yard shall be measured from a line 25 feet from and parallel to the centerline of the abutting street or right-of-way in the case of a county road and 15 feet in the case of a Town or private road.

5.2.2.2 Accessory Buildings

Accessory buildings shall comply with all setback requirements except as set forth in 5.2.2.3. Accessory buildings and garages physically attached to a principal building are deemed to be part of such building in applying bulk regulations.

5.2.2.3 Encroachments in Required Setbacks

The space in any required setback area shall be open and unobstructed except as follows:

- a. An accessory building shall be permitted in any required rear setback area, no closer than six feet to any property line.
- b. Awnings and canopies shall be permitted to project a maximum of six feet into a required setback.
- c. An open or enclosed porch or carport may be added to any building existing on the date of enactment of this Law so long as such porch or carport does not extend closer than 10 feet to any property line or 15 feet to the edge of any roadway surface.

5.2.2.4 Maintenance of Yards and Open Space

- a. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- b. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this Law. No permit

shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this Law.

5.2.3 MOBILE HOME STANDARDS

5.2.3.1 General Regulations

- a. A single mobile home shall comply with all area, bulk and parking requirements as apply to a one-family dwelling. A single mobile home is any such home not located in an approved mobile home park.
- b. All mobile homes shall have a permanent supply of potable water and sewage disposal system in accordance with the requirements of the Ulster County Health Department.
- c. Distribution systems for electricity, gas, telephone and fuel oil service to mobile homes shall be installed and maintained in accordance with all applicable state and local regulations.
- d. Mobile homes are subject to all applicable provisions of these regulations pertaining to building permits and certificates of occupancy

5.2.3.2 Construction Standards

- a. Foundation - All mobile homes shall have the wheels or skids removed and shall be set upon a permanent foundation within sixty (60) days of placement on the site. The foundation shall consist of either an eight-inch-wide wall, piers or columns extending at least thirty-six (36) inches below ground level. The foundation shall be in contact with and support the mobile home structural frame at such number of points and at such intervals as required to provide adequate, rigid support.
- b. Anchoring - The structural frame of the mobile home shall be attached to the foundation in not less than four (4) places, in such locations and by such devices as to ensure the stability of the mobile home.
- c. Perimeter skirting - The open area, if any, between the bottom of the mobile home and the top of the foundation shall be enclosed by a skirt extending around the full perimeter of the mobile home. Such skirt shall be constructed of weather and fire resistant wood, masonry or metal, securely fastened to the mobile home and its foundation and shall extend from the side wall of the mobile home to the adjacent ground at all points.

SECTION 5.3 OFF-STREET PARKING AND LOADING STANDARDS

Off-street parking and loading spaces shall be provided at the time a new use is established through construction of a new building or alteration or conversion of an existing building, in accord with the following standards and regulations:

5.3.1 OFF-STREET PARKING

a. Required Parking Spaces

Off-street parking spaces shall be provided as follows:

TYPE OF USE	MINIMUM NO OF PARKING
Residential and Related Uses	
One and two-family unit. Residences	Two (2) spaces for each dwelling.
Religious Facilities, Places of Public Assembly, Clubs and Fraternal Organizations, and Recreation Facilities	One (1) space for every four (14) seats in the largest hall or meeting area, or for every four (4) members whichever is greater.
Cultural Facilities	One (1) space for every 500 square feet of gross floor area.
Convalescent Home	One (1) space for every four beds.
Tourist Home	One (1) spaces for every two beds.
Home Occupation	One (1) space, plus on (1) additional space for any nonresident employee in addition to those spaces required for the residential use.

Non-Residential and Related Uses

One space shall be provided for each guest and employee or for each 300 square feet of nonresidential floor area, whichever is greater.

b. Pre-existing Uses

Structures and uses in existence as of the effective date of this Law shall not be subject to the parking requirements herein. However, if the parking spaces serving such structure or use are less than would be required by this Law, they shall not be reduced; and, if the structure or use is expanded, additional parking spaces in the appropriate amount required in (a) above shall be provided to serve such expanded area.

c. Dimensions of Parking Spaces

All parking spaces shall measure at least nine (9) feet wide and eighteen (18) feet long.

d. Location of Parking Spaces

(1) All required parking spaces shall be located on the same lot as the use they are intended to serve.

(2) No open or enclosed parking area for more than three (3) cars shall encroach on any required front yard. Parking areas may extend into a required side or rear yard to within twenty-five (25) feet of a side or rear lot line.

(3) Parking areas for non-residential uses shall also comply with §4.3.3.a.

e. Screening and Landscaping of Parking Areas

(1) Parking areas of ten (10) or more cars which are adjacent to or across the street from a residential property shall be screened from the view of such properties by a combination of walls, fences or hedges.

(2) All areas in a parking lot not required for parking space or access drives shall be suitably landscaped and maintained.

f. General Provisions

Off-street parking areas shall not be used for any purpose other than the parking of vehicles for customer, resident or employee use. There shall be no commercial storage or servicing or dismantling of automobiles or other vehicles; and no part of any parking lot shall be used for the sale, storage or abandonment of any articles or goods.

5.3.2 OFF-STREET LOADING

a. Required Loading Facilities

Off-street loading facilities shall be provided for non-residential uses so that service vehicles do not obstruct adjacent streets or driveways.

b. Location of Loading Berths

(1) All off-street loading berths shall be located on the same lot as the use for which they are required.

(2) Open off-street loading areas shall not encroach on any required front or side yard, off-street parking area or accessway.

(3) No loading berth shall be located within 25 feet of a property line.